

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Table of Contents

Section 1.	Purpose
Section 2.	Authority
Section 3.	Applicability and Scope
Section 4.	Definitions
Section 5.	Policies to Be Illustrated
Section 6.	General Rules and Prohibitions
Section 7.	Standards for Basic Illustrations
Section 8.	Standards for Supplemental Illustrations
Section 9.	Delivery of Illustrations and Record Retention
Section 10.	Annual Report; Notice to Policy Owners
Section 11.	Annual Certifications
Section 12.	Penalties
Section 13.	Separability
Section 14.	Effective Date

Section 1. Purpose

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

Section 2. Authority

This regulation is issued based upon the authority granted the commissioner under Section [cite any enabling legislation and state law corresponding to Section 4 of the NAIC Unfair Trade Practices Act].

Drafting Note: Insert the title of the chief insurance regulatory official whenever the term “commissioner” appears.

Section 3. Applicability and Scope

This regulation applies to all group and individual life insurance policies and certificates except:

- A. Variable life insurance;
- B. Individual and group annuity contracts;
- C. Credit life insurance; or
- D. Life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

Section 4. Definitions

For the purposes of this regulation:

- A. “Actuarial Standards Board” means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.
- B. “Contract premium” means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.
- C. “Currently payable scale” means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety-five (95) days.
- D. “Disciplined current scale” means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:
 - (1) Are consistent with all provisions of this regulation;
 - (2) Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
 - (3) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
 - (4) Do not permit assumed expenses to be less than minimum assumed expenses.
- E. “Generic name” means a short title descriptive of the policy being illustrated such as “whole life,” “term life” or “flexible premium adjustable life.”
- F. “Guaranteed elements” and “non-guaranteed elements”
 - (1) “Guaranteed elements” means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.
 - (2) “Non-guaranteed elements” means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.
- G. “Illustrated scale” means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:
 - (1) The disciplined current scale; or
 - (2) The currently payable scale.
- H. “Illustration” means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and that is one of the three (3) types defined below:

- (1) “Basic illustration” means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.
 - (2) “Supplemental illustration” means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.
 - (3) “In force illustration” means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.
- I. “Illustration actuary” means an actuary meeting the requirements of Section 11 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.
- J. “Lapse-supported illustration” means an illustration of a policy form failing the test of self-supporting as defined in this regulation, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five (5) years and 100 percent policy persistency thereafter.
- K. (1) “Minimum assumed expenses” means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:
- (a) Fully allocated expenses;
 - (b) Marginal expenses; and
 - (c) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the [National Association of Insurance Commissioners or by the commissioner].
- (2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.
- L. “Non-term group life” means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:
- (1) Every plan of coverage was selected by the employer or other group representative;
 - (2) Some portion of the premium is paid by the group or through payroll deduction; and
 - (3) Group underwriting or simplified underwriting is used.
- M. “Policy owner” means the owner named in the policy or the certificate holder in the case of a group policy.

- N. “Premium outlay” means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.
- O. “Self-supporting illustration” means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner’s election.

Section 5. Policies to Be Illustrated

- A. Each insurer marketing policies to which this regulation is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.
- B. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

Drafting Note: The prohibition in Section 5B may need to be modified if required by the state’s replacement regulation.

- C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this regulation is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.
- D. Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this regulation, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

Section 6. General Rules and Prohibitions

- A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this regulation, be clearly labeled “life insurance illustration” and contain the following basic information:

- (1) Name of insurer;
 - (2) Name and business address of producer or insurer's authorized representative, if any;
 - (3) Name, age and sex of proposed insured, except where a composite illustration is permitted under this regulation;
 - (4) Underwriting or rating classification upon which the illustration is based;
 - (5) Generic name of policy, the company product name, if different, and form number;
 - (6) Initial death benefit; and
 - (7) Dividend option election or application of non-guaranteed elements, if applicable.
- B. When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:
- (1) Represent the policy as anything other than a life insurance policy;
 - (2) Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
 - (3) State or imply that the payment or amount of non-guaranteed elements is guaranteed;
 - (4) Use an illustration that does not comply with the requirements of this regulation;
 - (5) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
 - (6) Provide an applicant with an incomplete illustration;
 - (7) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
 - (8) Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
 - (9) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
 - (10) Use an illustration that is not "self-supporting."

- C. If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Drafting Note: States may wish to replace disclosure requirements under the state's version of the Universal Life Insurance Model Regulation with the basic illustration as contained in this regulation.

Section 7. Standards for Basic Illustrations

- A. Format. A basic illustration shall conform with the following requirements:
- (1) The illustration shall be labeled with the date on which it was prepared.
 - (2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (*e.g.*, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").
 - (3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
 - (4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
 - (5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.
 - (6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
 - (7) If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
 - (8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (*e.g.*, "see page one for guaranteed elements.")
 - (9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.
 - (10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.
 - (11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

- (12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - (a) The benefits and values are not guaranteed;
 - (b) The assumptions on which they are based are subject to change by the insurer; and
 - (c) Actual results may be more or less favorable.
- (13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.
- (14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

B. Narrative Summary. A basic illustration shall include the following:

- (1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;
- (2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;
- (3) A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;
- (4) Identification and a brief definition of column headings and key terms used in the illustration; and
- (5) A statement containing in substance the following: “This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown.”

C. Numeric Summary.

(1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five (5), ten (10) and twenty (20) and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five (5), ten (10), twenty (20) and thirty (30).

(a) Policy guarantees;

(b) Insurer's illustrated scale;

(c) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(i) Dividends at fifty percent (50%) of the dividends contained in the illustrated scale used;

(ii) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(iii) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three (3) bases.

D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this regulation.

(1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

E. Tabular Detail.

- (1) A basic illustration shall include the following for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:
 - (a) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;
 - (b) The corresponding guaranteed death benefit, as provided in the policy; and
 - (c) The corresponding guaranteed value available upon surrender, as provided in the policy.
- (2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.
- (3) Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 8. Standards for Supplemental Illustrations

A. A supplemental illustration may be provided so long as:

- (1) It is appended to, accompanied by or preceded by a basic illustration that complies with this regulation;
- (2) The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;
- (3) It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and
- (4) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

B. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 9. Delivery of Illustration and Record Retention

- A.
 - (1) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.
 - (2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled “Revised Illustration” and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.
- B.
 - (1) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.
 - (2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.
- C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer’s obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.
- D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 10. Annual Report; Notice to Policy Owners

- A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:
 - (1) For universal life policies, the report shall include the following:

- (a) The beginning and end date of the current report period;
- (b) The policy value at the end of the previous report period and at the end of the current report period;
- (c) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
- (d) The current death benefit at the end of the current report period on each life covered by the policy;
- (e) The net cash surrender value of the policy as of the end of the current report period;
- (f) The amount of outstanding loans, if any, as of the end of the current report period; and
- (g) For fixed premium policies:

If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or
- (h) For flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

Drafting Note: For states that have adopted the NAIC Universal Life Model Regulation, this paragraph could be replaced with a reference to the equivalent of Section 9 of the model regulation.

- (2) For all other policies, where applicable:
 - (a) Current death benefit;
 - (b) Annual contract premium;
 - (c) Current cash surrender value;
 - (d) Current dividend;
 - (e) Application of current dividend; and
 - (f) Amount of outstanding loan.

- (3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.
- B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: **“IMPORTANT POLICY OWNER NOTICE:** You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer’s phone number], writing to [insurer’s name] at [insurer’s address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department.” The insurer may vary the sequential order of the methods for obtaining an in force illustration.
 - C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer’s present illustrated scale. This illustration shall comply with the requirements of Section 6A, 6B, 7A and 7E. No signature or other acknowledgment of receipt of this illustration shall be required.
 - D. If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 11. Annual Certifications

- A. The board of directors of each insurer shall appoint one or more illustration actuaries.
- B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this regulation.
- C. The illustration actuary shall:
 - (1) Be a member in good standing of the American Academy of Actuaries;
 - (2) Be familiar with the standard of practice regarding life insurance policy illustrations;
 - (3) Not have been found by the commissioner, following appropriate notice and hearing to have:
 - (a) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
 - (b) Been found guilty of fraudulent or dishonest practices;
 - (c) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

- (d) Resigned or been removed as an illustration actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;
 - (4) Not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under Paragraph (3) above;
 - (5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five (5) years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and
 - (6) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:
 - (a) Fully allocated expenses;
 - (b) Marginal expenses; or
 - (c) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the [National Association of Insurance Commissioners or by the commissioner].
- D. (1) The illustration actuary shall file a certification with the board and with the commissioner:
- (a) Annually for all policy forms for which illustrations are used; and
 - (b) Before a new policy form is illustrated.
- (2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.
- E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of his or her inability to certify.
- F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:
- (1) That the illustration formats meet the requirements of this regulation and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

- (2) That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this section.
- G. The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.
- H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

Section 12. Penalties

In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Section [cite state's unfair trade practices act].

Section 13. Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Section 14. Effective Date

This regulation shall become effective [January 1, 1997 or effective date set in regulation, whichever is later] and shall apply to policies sold on or after the effective date.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1995 Proc. 4th Quarter 11, 19, 779, 781-789 (adopted).

LIFE INSURANCE ILLUSTRATION MODEL REGULATION

These charts are intended to provide the readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings which are related to the NAIC model. Such guidance provides the reader with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has made an interpretation of adoption or related state activity based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This state page does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the laws cited should be consulted. The NAIC attempts to provide current information; however, due to the timing of our publication production, the information provided may not reflect the most up to date status. Therefore, readers should consult state law for additional adoptions and subsequent bill status.

LIFE INSURANCE ILLUSTRATION MODEL REGULATION

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LIFE INSURANCE ILLUSTRATION MODEL REGULATION

KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: States that have citations identified in this column have **not** adopted the most recent version of the NAIC model in a substantially similar manner. Examples of Related State Activity include but are not limited to: An older version of the NAIC model, legislation or regulation derived from other sources such as Bulletins and Administrative Rulings.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	ALA. ADMIN. CODE r. 114 (1996).	
Alaska	ALASKA ADMIN. CODE tit. 3, §§ 28.800 to 28.849 (1998/2011)	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	NO CURRENT ACTIVITY	
California	CAL. INS. CODE §§ 10509.950 to 10509.965 (1996).	CAL. INS. CODE § 10127.11 (1993/2013) (Illustrations for seniors).
Colorado	4 COLO. CODE REGS. § 1-8 (1997/2000).	
Connecticut	CONN. AGENCIES REGS. §§ 38a-819-58 to 38a-819-70 (1998).	
Delaware	18 DEL. CODE REGS. § 1210 (1997/2003).	
District of Columbia	NO CURRENT ACTIVITY	
Florida	NO CURRENT ACTIVITY	

LIFE INSURANCE ILLUSTRATION MODEL REGULATION

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	
Hawaii	HAW. REV. STAT. §§ 431:10D-401 to 431:10D-412 (2000/2004).	
Idaho	NO CURRENT ACTIVITY	
Illinois	ILL. ADMIN. CODE tit. 50, §§ 1406.10 to 1406.110 (1998).	
Indiana	760 IND. ADMIN. CODE 1-62-1 to 1-62-11 (2006).	
Iowa	IOWA ADMIN. CODE r. 191.14 (1996).	
Kansas	KAN. ADMIN. REGS. § 40-2-25 (1997/1998) (Model adopted by reference).	
Kentucky	806 KY. ADMIN. REGS. 12:140 (2007).	
Louisiana	LA. ADMIN. CODE tit. 37, §§ XIII.3301 to XIII.3323 (Regulation 55) (1996).	
Maine	ME. CODE R. § 910 (1999).	
Maryland	MD. CODE REGS. 31.09.09.01 to 31.09.09.13 (1997).	
Massachusetts	211 MASS. CODE REGS. 28.01 to 28.14 (2006).	
Michigan		BULLETIN 2000-02 (2000) (allows insurers to fulfill the requirements of Bulletin 95-04).
Minnesota	NO CURRENT ACTIVITY	

LIFE INSURANCE ILLUSTRATION MODEL REGULATION

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Mississippi	98 MISS. CODE R. § 2 (1998).	
Missouri	MO. REV. STAT. §§ 375.1500 to 375.1530 (1998/1999).	
Montana	MONT. ADMIN. R. 6.6.701 to 6.6.718 (2002).	
Nebraska	210 NEB. ADMIN. CODE § 72 (1997).	
Nevada	NEV. ADMIN. CODE §§ 686A.460 to 686A.479 (1998).	
New Hampshire	N.H. CODE R. INS. 309.01 to 309.12 (2000/2002).	
New Jersey	N.J. ADMIN. CODE §§ 11:4-52.1 to 11:4-52.10 (1998/2007).	
New Mexico	N.M. CODE R. 13.9.14.1 to 13.9.14.31 (1998).	
New York	N.Y. COMP. CODES R. & REGS. tit. 11, §§ 53-1.1 to 53-3.7 (Regulation 74) (1997/2003).	
North Carolina	11 N.C. ADMIN. CODE .0501 to .0509 (1996).	
North Dakota	N.D. ADMIN. CODE 45-04-01.1-01 to 45-04-01.1-10 (1996).	BULLETIN 96-2 (1996); BULLETIN 97-2 (1997).
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	OHIO ADMIN. CODE 3901:6-04 (1997/2013).	
Oklahoma	OKLA. ADMIN. CODE §§ 365:10-3-50 to 365:10-3-62 (1997).	
Oregon	OR. ADMIN. R. 836-051-0500 to 836-051-0600 (1997/2005).	

LIFE INSURANCE ILLUSTRATION MODEL REGULATION

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Pennsylvania	40 PA. STAT. ANN. §§ 38-107 to 38-108 (1996) (Also covers annuities).	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	R.I. GEN. LAWS §§ 27-62-1 to 27-62-11 (1999); 02-030113 R.I. INS. R. (2009).	
South Carolina	S.C. CODE ANN. REGS. 69-40 (1997).	
South Dakota	S.D. ADMIN. R. 20:06:38:01 to 20:06:38:35 (1997/2006).	
Tennessee	NO CURRENT ACTIVITY	
Texas	21 TEX. ADMIN. CODE §§ 2201 to 2210 (1998/2000).	
Utah	UTAH ADMIN. CODE r. 590-177 (1996/2009).	
Vermont	I-98 VT. CODE R. R. § 1 (1998).	BULLETIN 124 (1999).
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	WASH. REV. CODE ANN. § 48.23A (1997).	
West Virginia	W. VA. CODE R. §§ 114-11C-1 to 114-11C-11 (2008).	
Wisconsin	WIS. ADMIN. CODE INS. § 2.17 (1997).	
Wyoming	NO CURRENT ACTIVITY	

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

In November 1992 a working group was formed in response to a letter from a United States senator regarding the adequacy of information disclosed or available to consumers of life insurance. One of the senator's main concerns was computer generated sales illustrations. A working group was appointed and began by investigating the nature and extent of the problems that existed with respect to illustrations. The chair said that, judging by the amount of activity being undertaken regarding policy illustrations by other organizations, it seemed likely that there were some problems that required a regulatory response. One working group member noted that misrepresentations were prohibited in practically every state's unfair trade practices law. He said his state did not have any specific guidelines or parameters regulating sales illustrations, but if a policy illustration was used in a misrepresentative manner, the state could and would intervene. **1993 Proc. IB 794.**

The working group noted the NAIC Rules Governing the Advertising of Life Insurance contained requirements concerning the advertising or illustration of non-guaranteed elements but acknowledged that they had not been widely adopted. **1993 Proc. IB 795.**

The group recognized that it needed more information in order to fully understand the nature and extent of the problems that exist with respect to policy illustrations. A number of other groups had spent a considerable amount of time and effort in studying illustrations and the working group thought it could benefit from their knowledge. **1993 Proc. IB 795.**

One regulator summarized the problem in his department: Misleading illustrations are structured as inducements to buy rather than helpful tools to understand the workings of the product or as a comparison between products of competing companies. In addition, many purchasers as well as agents do not understand what an illustration is and what it is not. Most agents, companies and actuaries agree that there is a problem and that something needs to be done. The industry appears to be in gridlock on the matter. **1993 Proc. IB 789.**

Another regulator noted that considerable work and effort had gone into revisions of the Life Insurance Disclosure Model Regulation in the mid to late 1980s to address concerns with policy illustrations with respect to universal life insurance. It was suggested that these revisions should be used as a starting point regarding policy illustrations. **1993 Proc. IB 788.**

An actuary reported on a study completed by an association of actuaries on the nature and extent of problems that exist with respect to policy illustrations. As a result of a survey, the association's task force on illustrations determined that consumers do not understand illustrations or how they should be used. **1993 Proc. IB 788.**

A consumer advocate cited manipulation of mortality assumptions, sales misrepresentation regarding "vanishing" premium policies, manipulation of surrender charges, and bonus abuses as additional areas of concern. An actuary cautioned that life insurance disclosure issues have been the subject of ongoing debate since the 1970s, and addressing the problems could be an extremely challenging and time-consuming effort. **1993 Proc. IB 788-789.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

An agents' association representative reported that his group was concerned about problems because agents are generally the first to hear the disappointments, confusion and bitterness created by the unrealized expectations of policyholders. Of paramount concern to agents is the fact that illustrations may not be supportable under current actuarial standards of practice. He asked the group to concentrate on the serious problems caused when illustrations of non-guaranteed elements and dividends are not supportable for even a few years into the future and tend to overstate the amount of non-guaranteed elements and dividends likely to be paid. The association recommended more precise definitions and stricter rules on supportability and current experience. The association also asked the NAIC to take action to sensitize policyholders to the effect of a change in interest rates, and to mandate a signed disclosure statement where the consumer acknowledges he has read the illustration and understands it. **1993 Proc. 1st Quarter 251-262.**

Technical resource advisors pointed out that vanishing premium illustrations should include an explanation that premiums only vanish if assumptions reflected in the illustration continue unchanged into the future. The advisors did not favor disclosure of the assumptions underlying policy performance because they were so complex. They were concerned about being able to explain, in an understandable way, the multitude of assumptions with a bearing on policy performance. **1993 Proc. 1st Quarter 263-265.**

A consumer representative spoke in favor of simplified illustrations so people could understand them. Another agreed that the public would not be helped by more disclosure, since it already suffered from information overload. **1993 Proc. 1st Quarter 252.**

At the next meeting of the working group, technical resource advisors presented a suggestion for a cover page to an illustration to explain critical information in an understandable way. The intent was to include the information with illustrations the insurers were currently using. A spokesperson for the technical resource advisors said they did not favor a standardized format and did not propose adoption of a rigid set of rules for policy illustrations. **1993 Proc. 2nd Quarter 731-734.**

An agents' association representative said he thought the two biggest problems to address were agents who made their own illustrations and company illustrations with lapse rates built in. A regulator said he thought persistency bonuses should be kept separate from the basic illustration. **1993 Proc. 2nd Quarter 731.**

To assimilate the variety of comments received, the working group developed a position paper on life insurance illustrations. The group identified a number of problems in regard to current practices: (A) *Inappropriate use of illustrations to estimate future performance and to compare performance of different policies.* Several reports reviewed by the working group indicated the danger in attempting to use illustrations to compare different policies. Companies with the most aggressive assumptions will look like they performed the best. (B) *Lack of accountability of any of the parties to the sale: applicant, agent and company.* Insurance companies say they can't control manipulation by agents, agents do not understand the assumptions underlying the illustration provided by the insurer, and applicants may not understand how to make use of the information in the illustration. (C) *Lack of a standardized format for life insurance illustrations.* Illustrations are currently too complex for the applicant to understand. (D) *Lack of standard and consistent definitions, language, assumptions and methodology.* The lack of standard terminology tends to create confusion in the mind of the consumer. (E) *There is an inadequate description of the policy.* Many companies show only their marketing name on the policy illustration. (F) *Consumers are not notified of changes in current assumptions.* Annual statements do not update the illustration to reflect the actual performance and

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

current assumptions. (G) *Insufficient penalty provisions exist*. There are no specific penalties for life insurance disclosure violations. (H) *Current regulatory approaches are out-of-date considering the designs of policies being sold today*. State laws don't address many of the abuses possible with the types of products being sold today. **1993 Proc. 3rd Quarter 443-445.**

The working group recommended consideration of four alternatives to address the problem of inappropriate use of illustrations: (1) Use standardized assumptions. (2) Do not permit projections into the future. (3) Require a uniform illustration or format design. (4) Develop a set of rules that provide clear disclosure of the use of illustrations and the assumptions underlying the illustration. **1993 Proc. 3rd Quarter 445.**

The senator whose letter served as the catalyst for the NAIC discussion testified in response to the position paper. He urged the group not to back off from the positions it had taken. Of the four solutions mentioned in the paper, he thought member two was the best, but that any one of the four was a good solution. The senator said the most difficult part of the road was ahead and urged the group to resist any attempts to water down or derail its project. **1993 Proc. 3rd Quarter 440.**

After a year of discussion of numerous issues related to illustrations, the working group drafted an outline of standards to be included in the draft. As a step in the process of preparing a model that would restore integrity to the life insurance sales presentation process, the working group summarized the standards and objections that it expected to form the basis for development of the model. **1994 Proc. 3rd Quarter 522-524.**

A member of the working group suggested that the group would need to address possible conflicting provisions in other NAIC models. **1994 Proc. 4th Quarter 666.**

Section 1. Purpose

Regulators discussed whether one purpose of an illustration was to allow consumers to compare one policy with another. One meeting attendee said it was his personal belief that any time there is a number, people will compare it with another one. He did not believe this should be the only use of illustrations, but he did not think it was inappropriate. Another meeting attendee emphasized the need for substantial education of buyers. **1993 Proc. 4th Quarter 655-656.**

In a standards document prepared in 1994, the working group restated the focus on understandable illustrations that had been one of the goals all along. The focus of the illustration should shift from use as a sales tool to consumer education. **1994 Proc. 3rd Quarter 523.**

For a time the purpose section of the model included a statement that the illustration should be understandable without the assistance of an agent. The chair said he had received a comment that the provision denigrated producers. After some discussion the working group members decided that there was no intention to downgrade the services provided by a producer and they did not think the sentence did that. **1994 Proc. 2nd Quarter 563.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 1 (cont.)

A regulator suggested that a provision be added to refer to comparisons between policies, recognizing that people will compare policies whether the working group thinks it is appropriate or not. The majority decided the NAIC should not go on record in any way encouraging what they considered an inappropriate use of illustrations. **1995 Proc. 2nd Quarter 537.**

The working group considered whether it was advisable to retain the phrase “as far as possible” in reference to elimination of the use of footnotes, and decided to retain that phrase because it stated as a goal the intent to eliminate the use of footnotes. **1995 Proc. 3rd Quarter 676.**

Section 2. Authority

It was suggested to the drafters that there might be states that did not have authority under their existing statutes to adopt this regulation. The chair opined that there would, at most, be only a few states that would need enabling legislation so no change was made to this section. **1995 Proc. 3rd Quarter 676.**

Section 3. Applicability and Scope

An early draft contained an exemption for pension and other retirement plans. Several questions suggested this exemption was not as clear as it should be. A regulator questioned whether it was appropriate because pension plan administrators were not all sophisticated purchasers and might need the benefit of the protection offered by the model. **1994 Proc. 2nd Quarter 566.**

A regulator expressed concern about an exclusion for life insurance sold in connection with plans subject to the Employee Retirement Income Security Act of 1974 (ERISA). The chair asked if it would create a problem if this exclusion were not in the model. **1994 Proc. 4th Quarter 657.**

A. A commissioner asked if it was appropriate to exclude variable life policies from the regulation. An association representative said the Securities and Exchange Commission (SEC) required formidable disclosure. A consumer representative pointed out the SEC has stated its disclosure was inadequate. **1994 Proc. 2nd Quarter 566.**

A draft of standards to include in a regulation included variable life and said disclosure requirements should correspond as closely as possible to the other requirements to which the product is subject. The working group chair explained that consistency was needed for all types of products, including annuities. A meeting attendee agreed that it was very important to include variable life in the NAIC’s product. **1994 Proc. 3rd Quarter 520, 522.**

The working group reviewed extensive comments about whether to include variable life insurance in the regulation. Insurance association representatives emphasized the differences in this type of products and the layers of regulation to which it is already subject. The chair emphasized that it was important that all types of products play by the same rules. **1995 Proc. 1st Quarter 496.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 3 (cont.)

B. One of the first questions addressed when the working group began drafting was whether the model should apply to annuity illustrations also. It was the consensus of the drafters to finish the charge it had received relative to life insurance illustrations and then decide whether to ask for a charge regarding annuity illustrations. **1993 Proc. 4th Quarter 654-655.**

Later a new member of the working group again brought up the issue of annuities. He saw a major problem in his state because so many retired people had annuities. The working group chair said that after the life insurance illustrations regulation was finished, the group intended to address the issue of annuities. **1994 Proc. 3rd Quarter 564.**

The group drafting the model asked for the authority to start on a regulation on annuity illustrations as soon as the draft on life insurance was complete. The chair emphasized that one of the goals of the working group was that illustration rules should not drive the market. Companies should not be encouraged to sell one product over another simply because it had less onerous illustration requirements. **1994 Proc. 4th Quarter 652.**

D. A list of exceptions to the model first included mention of policies with a face value of \$10,000 or less in 1994. There was no discussion of the proposal at that time. The draft prepared at the December meeting did not include the suggested exclusion. **1994 Proc. 4th Quarter 659, 671.**

The June 1995 report of the working group included a discussion of an exemption for preneed funeral plans. It was pointed out that the typical funeral expense contract does not have non-guaranteed elements. A representative for the prepaid funeral plan industry said the industry's main concern was that the illustration requirements might be interpreted so broadly that a preneed funeral agreement might be interpreted as an illustration. He said the documents used by funeral directors are regulated by the Federal Trade Commission. The working group decided to exempt all policies with a face value of less than \$10,000 from the provisions of the model regulation. **1995 Proc. 2nd Quarter 537-538.**

The drafters considered but discarded a suggestion to add the word "cumulative" to describe the \$10,000 limit. After examination of other sections they decided that it was not within the terms of the model to divide a policy into a number of smaller policies not exceeding \$10,000 in order to be exempted from the regulation. To clarify that issue, the phrase "on any individual" was added before the \$10,000 limitation. **1995 Proc. 3rd Quarter 676.**

Section 4. Definitions

The position paper drafted to help define the working group's goals recognized the importance of standard definitions. Some of the terms identified by the group as needing to be defined were supportability, current experience, mortality assumption, interest or crediting rate, expense charges and persistency. **1993 Proc. 3rd Quarter 446.**

C. Shortly before the model was adopted, the working group decided to include a 95-day window during which the company could change its scale and included that in the definition of "currently payable scale." **1995 Proc. 3rd Quarter 676.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 4D

D. An actuary brought up the issue of manipulation of mortality assumptions. He said a “game” is being played where the assumptions of mortality vary from that currently being experienced. He said the regulators could set standards and he did not think they should allow projections of improving mortality. **1993 Proc. 4th Quarter 650.**

Very early in the drafting process one of the working group members asked if there were actuarial standards that applied to life insurance illustrations. The reply was that there were some very general standards, but much more was needed to define the issues in life insurance illustrations. **1994 Proc. 1st Quarter 431.**

A recommendation from technical resource advisors included a suggestion that the current scale should represent *recent* historical experience, which would be a more accurate representation of what is currently being paid. The advisor argued against changing to a measure based on historical experience because it would be misleading, and the information needed would be difficult and expensive to compile. **1994 Proc. 1st Quarter 368.**

A commissioner opined that the working group had gotten the cart before the horse when it voted to allow illustration of guarantees only. He said the problem of how to determine current scale must be addressed by actuaries before an illustration guideline can be written. **1994 Proc. 1st Quarter 366.**

Eleven proposals were submitted for working group consideration. All but one called for a ban on the projection of improvements in interest, mortality and expenses. **1994 Proc. 3rd Quarter 533.**

The technical resource advisors recommended a definition of “disciplined current scale” that was meant to assure that insurers did not illustrate a scale that exceeded one logically and reasonably based on actual recent historical experience. It may reflect actions that already have been taken or events that already have occurred, but may not include any projected trends of improvements in experience, or any assumed improvements in experience based on events that have not yet occurred or actions that have not yet been taken. Insurers could not use a scale in illustrations that exceeded a scale produced by the application of the standards for disciplined current scale established by the Actuarial Standards Board and certified by the company actuary as being within the standards. **1994 Proc. 3rd Quarter 525.**

Some of the standards included in the position paper draft of Sept. 17, 1994 were questioned as being more appropriate for inclusion in actuarial standards. The chair said there was some concern that the Actuarial Standards Board would not be able to respond with adequate controls. A representative of the Board said the standards needed in this case were more extensive than generally prepared by the Board. **1994 Proc. 3rd Quarter 521.**

A regulator asked if there was a term the group would prefer instead of “disciplined current scale.” One person responded that “discipline” did not mean anything so he was in favor of changing it. Another responded that “current scale” already meant something so he thought it was necessary to add something to the term. **1994 Proc. 4th Quarter 666.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 4D (cont.)

Near the end of the drafting process a regulator suggested including a requirement that each element of the calculation be supportable; for example, mortality charges related to mortality experience, credited interest rates supported by interest earned. Other members of the group agreed this was the ideal way to perform the calculations but decided to leave the draft as it was and revise later if the regulation proved ineffective. **1995 Proc. 2nd Quarter 538.**

A comment was made that too much authority was being delegated to the Actuarial Standards Board. To address antitrust concerns raised by an actuarial association, Subsection D was revised to add the four paragraphs conditioning reliance on the actuarial standards upon compliance with various provisions of the model. **1995 Proc. 3rd Quarter 676.**

The working group considered what procedures would be necessary if the Actuarial Standards Board did not adopt an actuarial standard. The group decided that extensive changes to the model would be necessary to include calculation instructions in the regulation. **1995 Proc. 3rd Quarter 676.**

G. Shortly before adoption of the model a definition of “illustrated scale” was added. The working group was requested to add language creating a 95-day window in the illustrated scale definition, because of a concern that a scale could not be used by an actuary until after it had been certified. Instead the definition of disciplined current scale was changed to clarify that the scale must be certified annually. **1995 Proc. 3rd Quarter 676.**

H. Early in the drafting process an interested party asked how the group would define “illustration.” One of the regulators responded that the group favored a broad definition such as “anything that purports to describe the policy and is used in the sales presentation.” **1993 Proc. 4th Quarter 655.**

A meeting attendee asked the drafters to be careful not to define illustration so broadly that a letter from an agent to a customer was considered an illustration. **1994 Proc. 2nd Quarter 566.**

An interested party said that after a company had designated a form as not using an illustration, the insurer would need a clearer idea of what it could use that did not meet the definition of an illustration. The chair responded that any information provided that showed something other than guarantees would be considered an illustration. **1994 Proc. 4th Quarter 657.**

I. When reviewing the draft of the definition of an illustration actuary, the working group chair said it must be clear that the illustration actuary is appointed by and answers to the board of directors. The working group decided to move this and other requirements for the illustration actuary to Section 11 of the model where the requirements for the illustration actuary were fully set out. **1995 Proc. 1st Quarter 480.**

J. The chair said it was important that the definition of “lapse-supported pricing” be included in the regulation and suggested copying the definition from the actuarial standard. **1995 Proc. 1st Quarter 480.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 4 (cont.)

K. The Actuarial Standards Board said the expense assumptions included in the disciplined current scale created some problems, since the working group had indicated a desire to allow illustration only of fully allocated expenses. For new companies and startup lines of business marginal pricing typically was used. In order to give some control over marginal pricing the Actuarial Standards Board recommended a new category of expense assumptions based on generally recognized expense studies. When a company fully allocates the expenses, expenses of the line plus a share of the overhead costs are allocated to that policy form and would be reflected in the illustration. Companies recognize that a new line of business may not be able to carry fully its share of overhead, so marginal pricing often is used, which does not allocate the full share of overhead to costs being included in the calculations for the illustration. In order to put a limit on the marginal pricing, the Actuarial Standards Board suggested using studies of industry averages of fully allocated expenses as a floor. The members of the working group were persuaded that, if the generally recognized expenses were put into a table that was subject to approval by the NAIC membership or the commissioner, this would be a workable solution. **1995 Proc. 3rd Quarter 678-679.**

L. To deal with the issue of the group insurance, a definition of “group universal life” was added. The group was asked to consider expanding the definition to include qualified individual products marketed through association groups and other permitted groups, but did not add other types of coverage because it would expand the model considerably. **1995 Proc. 3rd Quarter 677.**

Just before model adoption the group was asked to broaden the scope to include traditional whole life so the term “universal life” was replaced with “non-term group life.” **1995 Proc. 4th Quarter 778.**

O. The chair said it was important that the definition of “self-supporting illustration” be included in the regulation and suggested copying the definition from the actuarial standard. **1995 Proc. 1st Quarter 480.**

Section 5. Policies to Be Illustrated

A. When drafting standards about what to include in a model, the working group spent a considerable amount of time discussing whether to *require* an illustration. One problem was that, if the regulation did not require an illustration, there would be no way to verify in a market conduct examination that a company had not used an illustration just because there was not one in the file. If everyone was required to provide an illustration, there would always be one in the file for the market conduct examiner to review. The standards draft was modified to provide that if no illustration was used, the company file must contain a statement signed by the agent and applicant to that effect. **1994 Proc. 4th Quarter 672, 674.**

A regulator pointed out that, if one of the goals was education of the consumer, no education would take place if no illustration was used. **1994 Proc. 4th Quarter 674.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 5 (cont.)

The chair of the working group said he had not heard much opposition to requiring the use of an illustration. An insurer representative responded that, as long as there was a carve-out for plans that did not typically use illustrations and a provision that it could be presented at the time of delivery, she did not expect much industry opposition. A representative of small insurers agreed the requirement to provide an illustration with policy delivery was appropriate. If an agent had not brought along an appropriate illustration, the sales call could not proceed if the requirement was that the illustration be presented at the time of sale. **1994 Proc. 4th Quarter 667.**

As drafting progressed, the working group made clear their intention that the insurer should designate whether a particular policy form would be sold without an illustration. If a company designated a form as one not using an illustration, then the company would be prohibited from the use of any illustration for that form. This would be better than having the regulators decide which policies did not get an illustration. The insurer would make the designation at the time it filed the form, and if it had chosen to use no illustration, one would not be provided even if requested. This meant no supplemental illustration would be allowed either. An insurance association representative asked if this meant companies that had designated a policy form as one to use an illustration would be required to use illustrations at every sale. The chair said this was true, although the illustration could be presented at the time of delivery. **1994 Proc. 4th Quarter 657.**

B. To address a concern that Subsection B prohibited a company from giving out an in force illustration if the policy had been designated as one to be marketed without an illustration, the phrase “prior to the first policy anniversary” was added. It was suggested that this might conflict with a state’s replacement regulation, so a drafting note was added to alert states to that possibility. **1995 Proc. 3rd Quarter 677, 682.**

C. The working group discussed the application of the model to illustration of group policies. Technical resource advisors suggested language to be added that exempted groups’ illustrations from the requirements of this model. The working group recognized that sometime an individual was shown his own personal illustration and the language was adjusted to cover that situation. **1995 Proc. 2nd Quarter 538.**

A regulator suggested adding a provision that the exception of Subsection C only applied if it was employer-paid coverage. A technical resource advisor clarified that this provision was meant to exempt corporate-owned life insurance, which is paid by the employer, as the addition was not necessary. **1995 Proc. 3rd Quarter 677.**

D. Late in the drafting process this subsection was added to provide an addition exemption. It said those who received an illustration from a group universal life policy could receive a generic illustration, and those who purchased the policy would get a personalized illustration if the premium paid was high enough to build up cash values in the policy. In addition, anyone who wished a personal illustration could ask for it. If the policy was individually marketed, every enrollee would get a basic illustration, and the rules requiring a diligent effort to get a signature would apply. **1995 Proc. 3rd Quarter 677.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 5D (cont.)

Just before model adoption the group was asked to broaden the scope of Subsection D to traditional whole life, rather than just universal life. The term “universal life” was replaced with “non-term group life.” **1995 Proc. 4th Quarter 779.**

The chair said this was a substantive change made to provide for treating other cash value group policies similarly to universal life. **1995 Proc. 4th Quarter 778.**

Section 6. General Rules and Prohibitions

A. The position paper drafted to help define the working group’s goals recognized the importance of clearly identifying the type of insurance being illustrated by generic name. In addition to any marketing title, the policy illustration should clearly label the policy as term, whole life, etc. **1993 Proc. 3rd Quarter 446.**

B. A regulator said he did not think it was appropriate to use the term “vanishing premium” unless there would be no premium due, such as a 20-pay policy. Otherwise he said premiums do not “vanish,” they are just paid out of accrued money. He said many problems were caused by a belief that premiums really did vanish. One company representative said her company did not use the term “vanish,” but instead said there would be no out-of-pocket premium. Another company representative endorsed that approach. He agreed it would be appropriate to show the premium all the way down with an asterisk that the consumer could choose to use paid-in amounts instead of paying the amount out-of-pocket. **1993 Proc. 4th Quarter 656.**

A regulator commented that it would be appropriate to prohibit illustration of vanishing premiums. An interested party responded with a suggestion that the illustration show the premium does not “vanish” but show how the policy values pay the premium. A commissioner said the trouble with disclosing that a premium might at some point “resume” is that the premium never stopped. It is misleading to make a consumer think the premium is not being paid. Another regulator agreed and said many complaints were received in his department on this issue. **1994 Proc. 3rd Quarter 521.**

The early drafts prohibited the illustration of “vanishing premium” in a basic illustration. An interested party asked if the basic illustration should use a level premium in all years or the higher premium that would be required to allow for the vanish. The working group agreed that level premiums should be shown. The working group chair said the reason for the aversion to “vanish” is to show that premiums really are due, but are paid from a policy loan or from the dividends. Another regulator said it was important to show the premium dollars and then an asterisk that indicated it could be paid from the policy accumulation. An insurer representative said her company’s computer system could not handle a dollar amount in the column without adding it to policy value. Another interested party said he would like to see this as part of the basic illustration. **1995 Proc. 1st Quarter 498.**

An insurance company representative said he felt the greatest illustration problem was lapse-supported products and suggested that illustration of lapse-supported products not be permitted. **1994 Proc. 2nd Quarter 553.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 6B (cont.)

The working group spent some time discussing the concept of lapse-supported illustrations. An actuarial consultant to the group said she would hate to see a regulation that did not allow any support from lapses, because the chance that there would be no lapses was near zero. The chair said the people producing illustrations needed some bright line tests to know when they have used a lapse-supported illustration. **1994 Proc. 4th Quarter 668.**

The Actuarial Standards Board representative asked if the self-support and lapse support tests should be applied to the policy as a whole, or whether the actuary would be required to test each cell within the policy form. He asked whether it was possible to have cross-subsidiaries between ages, underwriting classes, etc. as long as they were modest. The working group chair suggested the term “incidental,” meaning the subsidization was not being designed into the illustration. **1995 Proc. 1st Quarter 491.**

The final set of comments presented to the working group included two suggestions allowing illustration of some lapses beyond five years. The working group members noted that the existing provisions were already a compromise because persistency bonus testing had been deleted. The group agreed to leave the model as is, and the chair reminded the meeting participants that the provisions do not eliminate any products, but rather require less aggressive illustrations. **1995 Proc. 4th Quarter 779.**

A regulator pointed out that the working group had decided not to change the requirement for a zero percent lapse rate assumption, and asked if many had questioned this provision. The chair responded that several comments had been made to the Actuarial Standards Board. He also said the provision had been considered as a part of the persistency bonus issue. If the working group backed away from the lapse support test, it would run the risk of reintroducing problems with persistency bonuses that had been eliminated. The regulator that raised the issue asked if an alternative would be to add a drafting note suggesting a state might want to modify this requirement. The chair responded that the actuarial standard of practice would not apply to any state’s law where there was substantial deviation from the model, and it would increase the cost of compliance if modifications were made in each state. **1995 Proc. 4th Quarter 778-779.**

A regulator asked about how a persistency bonus was created and shown on an illustration. A meeting attendee responded that some companies set aside reserves for those bonuses and others do not. Many companies use the assumption that a certain percentage of people will lapse their policies. Extensive discussion resulted on exactly what the bonus meant and whether it should be illustrated. A commissioner said he was most concerned about equity for those who stay most of the time, but not quite long enough for the bonus. Another commissioner agreed that he too was most concerned about the cliff nature of the bonus. An insurer representative said he was most concerned about the illustration of bonuses and thought it was one of the reasons the working group had been formed. **1994 Proc. 3rd Quarter 566.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 6B (cont.)

A regulator said he believed companies should be allowed to pay bonuses, but not to illustrate them. Another regulator agreed the working group was not trying to impact product design. The working group agreed that a persistency bonus did not belong in an illustration. **1994 Proc. 3rd Quarter 567.**

An interested party asked if a bonus that was guaranteed could be illustrated. The chair responded that if the *amount* was guaranteed it could be illustrated because it was really an endowment. If the guarantee was a percentage of the cash value, which was not guaranteed, then it was not actually a guarantee and could not be illustrated. The working group agreed this was so. Another interested party described a plan that, if the policyholder paid the premium regularly, paid a bonus. Since it was based solely on policyholder action, the working group agreed this was not a persistency bonus. **1995 Proc. 1st Quarter 499.**

For a time the draft included a strongly worded warning about persistency bonuses. The regulators agreed the disclosure needed to be straightforward and understandable. One regulator suggested deletion of the disclosure and a prohibition of a persistency bonus of this type. **1995 Proc. 2nd Quarter 538.**

Shortly before adoption of the model the group voted to remove a definition of persistency bonus and other sections related to persistency bonuses from the regulation. The reason was that the definition of lapse support and the testing provided in the actuarial standard of practice would eliminate most abuse. All three of the definitions considered by the working group generated a significant number of false results. **1995 Proc. 3rd Quarter 675, 677.**

A representative of a trade association showed a sample illustration for a price comparison of a large number of term policies. The chair pointed out that the illustration was incomplete based on the standards of the model and suggested it would be necessary to produce a basic illustration for all of these companies. The representative said this was backward because the intent was to help the consumer pick the ones he was interested in, and then those would be expanded to provide full illustrations. An insurer representative said her company specifically prohibited the use of its information on a spreadsheet such as the one being described without an additional basic illustration. **1995 Proc. 1st Quarter 494.**

When the working group next considered the term insurance issue, it heard a number of viewpoints. One suggested that many problems had occurred relative to term life illustrations because they are not complete, the guaranteed amounts may not be shown, and many variations may be included that are not part of term insurance. It is difficult to define term life because of the many variations available. Much of the information required in the model does not apply to term policies, which have no cash value. Term life policies are only concerned with current premiums and maximum premiums. The working group decided to identify specific areas of the model regulation that should not apply to term life and indicate at that point that the provisions did not apply to term life insurance. **1995 Proc. 2nd Quarter 537.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 6C (cont.)

C. Extensive discussions were held about whether it was appropriate to have an illustration that identified the interest rate, but that rate did not bear a reasonable relationship to the assumptions underlying it. The example given was a product that illustrated a 7% return with lower expenses and one illustrating an 8% return with higher expenses. The consumer would assume the one paying 7% was not as good, but the two might have similar ending values. Some regulators spoke in favor of breaking out the various components so a consumer would know if the policy had a high expense charge. Another regulator opined the numbers wouldn't mean anything to the average consumer, and suggested the interest rate should not be shown because of the possibility of manipulation. Another regulator said that through disciplined current scale the abuses would be eliminated. **1995 Proc. 1st Quarter 492.**

An interested party opined that emphasis on the interest rate encouraged comparison with investment products rather than emphasizing this was an insurance product. **1995 Proc. 1st Quarter 492.**

The issue of disclosure of an interest rate was discussed again at a later meeting. The group considered two issues: (1) Whether the rate shown on an illustration should be disclosed and, if so, (2) should it be the gross rate earned by the company or the net rate after expenses. One attendee said the net rate would be most helpful because it would be after expenses and commissions were paid. Another opinion was that the rate the insurer would have to earn on its investments in order to pay the illustrated amounts would be more helpful and less subject to manipulation. It might be easier for consumers to measure whether this rate was likely to be available in the marketplace. Others expressed concern that the applicant would not understand either the gross rate or the net rate or the possibility for manipulation. The working group considered prohibiting disclosure of an interest rate, but decided to require that an interest rate be available for disclosure in connection with an illustration and that this rate be the rate underlying the disciplined current scale. **1995 Proc. 2nd Quarter 537.**

A regulator expressed discomfort with the provisions of Subsection C. The chair said the subsection had been added because of concern of the working group members that any interest rate shown on the illustration could be manipulated and the requirement to use the interest rate underlying the disciplined current scale was an attempt to reduce that manipulation. Several meeting attendees pointed out difficulties with complying with this model and the universal life regulation. The working group agreed on revised language for Subsection C. **1995 Proc. 3rd Quarter 677.**

Section 7. Standards for Basic Illustrations

A. The position paper drafted to help define the working group's goals suggested the need to develop one or more standardized formats for illustrations to follow. The illustration should set forth policy value, cash surrender value and death benefit, using both current assumptions and guaranteed assumptions. **1993 Proc. 3rd Quarter 446.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7A (cont.)

At one point in the drafting process, the model included a requirement that the rating classification on which the illustration is based must be disclosed. This was necessary to avoid the situation where the company illustrates the best class when only two percent of the people are actually written in that class. **1994 Proc. 2nd Quarter 565.**

Later in the drafting process the group considered the rating classification issue again. The chair pointed out that, if the highest rating was always used, that was a bait and switch tactic. An interested party opined that this information was not very useful to consumers. The group decided this topic was more appropriately subject to regulation in another area than illustrations and moved that no description be required. **1995 Proc. 1st Quarter 494.**

When reviewing the working group's standards for what should be included in a model, one meeting attendee asked if other information and formats would be permitted as long as they were not inconsistent with the basic standards. The working group chair responded that there was a need for a basic format so a consumer could see similar elements of an illustration. Another regulator agreed that the basic illustration should be similar and then the company could show how the product would be used to meet special needs. **1994 Proc. 3rd Quarter 521.**

The regulators agreed that a certain amount of standardization of the format was beneficial so the applicant would know where to look for certain information. The sequence of the information should be included in the model. **1994 Proc. 4th Quarter 674.**

Later in the drafting process it became clear that there was some confusion as to the amount of standardization that was required in the model. Some requested that the insurer be able to put the items in any order it desired. It was pointed out that if the tabular ledger illustration came first, the consumer might not look past the numbers. The working group decided it was important that the elements come in the same order so consumers would know they could find certain information in certain places, but declined to standardize the illustration to the degree of requiring the information to be in a specified format. **1995 Proc. 2nd Quarter 537.**

An interested party asked if the illustration was to apply to riders also. The chair responded that the rider was part of the contract, so needed to be included in the illustration. A response was that long-term care riders would be difficult to illustrate, and the chair said that if riders weren't included in the illustration, it would change the premium. **1995 Proc. 1st Quarter 499.**

The chair asked a software developer if it was possible to include a brief identifier on each page of the illustration, such as the date and time, or a code number for each illustration. This would provide some security against using the illustration system in innovative or creative ways beyond the scope of the regulation. **1995 Proc. 1st Quarter 493.**

At the June 1995 meeting a request was made to delete the requirement that each illustration carry a unique identifying number. The drafters agreed to this suggestion. **1995 Proc. 2nd Quarter 538.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7A (cont.)

A requirement was added to indicate on the illustration the date it was prepared. **1995 Proc. 3rd Quarter 677.**

The technical resource advisors creating sample illustrations found it difficult to fit all the needed information side by side. They recommended a requirement that, if non-guaranteed elements ended up on a different page, that page should refer back to the page with the guaranteed elements. **1995 Proc. 1st Quarter 493-494.**

The technical advisors said they envisioned that the last page of the illustration would be for things that were state specific, such as a yield index. The working group agreed this was appropriate. The chair said he liked the idea of building these within the illustration instead of having separate sets of pages to meet different state requirements. **1995 Proc. 1st Quarter 494.**

Technical resource advisors concluded it was more appropriate to show the vanishing premium as part of the basic illustration, rather than in a supplemental illustration. If a customer intended to use an abbreviated payment schedule, he needed to see this in his basic illustration. The supplemental illustrations had originally been conceived as something to show sophisticated arrangements such as buy/sell agreements, split dollar plans, etc. and when the supplemental illustration showed everything except the plain vanilla policy, there was a lot of duplication. **1995 Proc. 1st Quarter 493.**

In the summer of 1995 a decision was made to add Paragraph (13) to allow a basic illustration to show premiums paid from the policy value rather than out-of-pocket. This had previously been part of the supplemental illustration and the working group decided to move this into the basic illustration. **1995 Proc. 2nd Quarter 538.**

B. Technical resource advisors recommended a cover page to the illustration to include in a narrative form valuable information about the illustrated policy. The spokesperson said he was not in favor of standardization of the illustration because he said it would penalize well-run companies. **1993 Proc. 3rd Quarter 440-441.**

The working group had previously identified the need for some kind of glossary of terms so the customer would understand the terms used in the illustration. There had been discussion of developing a glossary or asking the Society of Actuaries to develop a glossary. Some industry representatives expressed concern about using glossary terms that might not match language in the policy. The working group decided the language in Paragraph (4) requiring that key terms used in the illustration be defined was adequate to address their concerns. **1995 Proc. 2nd Quarter 538.**

Just before adoption of the model a Paragraph (5) was added reminding the applicant that the non-guaranteed elements were likely to change. **1995 Proc. 4th Quarter 780.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7 (cont.)

C. The position paper drafted to help define the working group's goals suggested that standardized assumption might avoid many of the problems that had resulted from the unfettered use of numbers. An agents' association spoke against this solution as not practical. The representative said it made bad companies look good and good companies look bad. He said there was a need to illustrate non-guaranteed elements, but consumers must understand they are not guaranteed. He thought it was a good idea to tighten up the parameters of assumptions. **1993 Proc. 3rd Quarter 441.**

The working group asked technical resource advisors to develop an illustration, and if clear illustration was not possible, the group favored the second alternative in the position paper: not permitting projections into the future. It was agreed that the fourth alternative solution, development of a set of rules that provide clear disclosure, should be used in conjunction with either alternative. There was the least support for the alternative solution that required standardized assumptions. **1993 Proc. 4th Quarter 655.**

A representative of an insurer asked how illustration of new products would work if the group chose the option of allowing only past performance to be illustrated. The working group suggested that there would then be no past performance to illustrate. She responded this would imply there was a problem with the new product. **1993 Proc. 4th Quarter 655.**

A comment received from an agent association suggested that consumers be made aware that current illustrative results are not a prediction of future values, but rather a snapshot of how the policy would work if the current scale were to remain unchanged. Sensitivity to change could be accomplished by showing three columns of value: guaranteed, current, and current minus one percent. **1994 Proc. 1st Quarter 413.**

An agent commented that it was important to sensitize consumers to the inevitability of change. A regulator responded that there were already too many numbers on an illustration, but he favored requiring illustration of a number half way between the guarantees and the current scale. **1994 Proc. 3rd Quarter 566.**

Eleven proposals from various sources were submitted for consideration. All of those from the industry called for sensitivity testing or some other means of highlighting the fact that non-guaranteed elements are subject to change. The most common method was to show results assuming an interest rate one percentage point lower than the disciplined current scale. One suggested a point half way between the current rate and the guaranteed rate. Most companies felt that, since interest is the most volatile and most easily understood of the non-guaranteed elements, showing change in that alone would be sufficient. **1994 Proc. 3rd Quarter 533.**

When the working group further considered the issue of a sensitivity index, one regulator expressed concern that one more column of numbers would cause confusion. An interested party suggested it was not necessary to have a whole column; a simple statement of when the premium would vanish or the policy would expire would be sufficient. Another interested party said he hoped the working group would allow companies to use the sensitivity analysis even if it was not mandated. **1994 Proc. 4th Quarter 669.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7C (cont.)

A new member of the working group wanted to discuss the concept of standardized assumptions again. Another member suggested it might be appropriate to include the concept in the sensitivity analysis in the numeric summary. An interested party commented that she was uncomfortable with the use of any standardized numbers because it promoted mediocrity, but she was less uncomfortable using it as a sensitivity index. **1995 Proc. 1st Quarter 497.**

After reviewing sample illustrations, the working group agreed a sensitivity index could make the pages crowded or confusing. The group voted to require the sensitivity analysis only on the numeric summary and place the summary on the same page as the signature to avoid the possibility that pages would be switched. **1995 Proc. 1st Quarter 494.**

The working group considered a sensitivity index of one or two percentage points below the disciplined current scale, but chose a half way mark between current and guaranteed for interest, insurance charges and expense charges as being simpler to implement and easier for consumers to understand. The working group also considered whether this section should apply to term life insurance and agreed that it was important because for an indeterminate premium policy this information would be useful. **1995 Proc. 2nd Quarter 538-539.**

A regulator pointed out that in the numeric summary there was a requirement for numbers for the fifth, tenth and twentieth year and for age 65. He asked if it would be appropriate to change that to age 70, since more and more people will not retire until after age 65. The working group agreed this would be appropriate. **1995 Proc. 1st Quarter 494.**

D. The position paper drafted to help define the working group's goals suggested that, to address the problem of accountability, all the parties to a sale should be made accountable for their actions. The agent and applicant should sign the illustration used at the point of sale to indicate the projected performance of the policy based on non-guaranteed factors was disclosed and explained to the consumer. The insurer should be required to examine the illustration used and to verify that the illustration correctly shows the product sold. An officer of the company should sign the illustration delivered with the policy to verify that it correctly illustrated the policy issued. If the illustration was changed from that used at the point of sale, a revised illustration must be prepared and signed. The company must maintain the correct and signed illustration until the policy is out of force three years. **1993 Proc. 3rd Quarter 445-446.**

An insurer representative said the regulators should not ignore the fact that consumers take advantage of a situation. If they were now dissatisfied with the policy performance, they would look for someone to make them whole. The working group chair said he thought accountability was very important. He favored the approach of requiring all parties to the sale to agree that everything was explained. **1993 Proc. 4th Quarter 656.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7D (cont.)

One regulator said he was uncomfortable with the disclosure statement to be signed by the consumer. He said it took away too much from the consumer. A technical resource advisor said insurers needed to get something out of the compromise too. Another regulator suggested the statement contained too much legalese. **1994 Proc. 4th Quarter 666.**

A technical resource advisor pointed out that the draft contained no requirement for the placement of the signature page. There needed to be sufficient information on the page so that it was not possible to switch the page with that from another illustration. **1995 Proc. 1st Quarter 493.**

E. When the working group was early in its drafting process, one regulator asked how companies showed surrender value. An actuary responded that most companies showed the net surrender value, but she was aware that a few companies put the total value and then used a footnote to explain that expenses would be subtracted. **1993 Proc. 4th Quarter 656.**

After review of several drafts of illustrations and cover pages for illustrations, the working group members agreed that there had been little improvement in the quality of drafts they received. Several members of the group commented that if the insurance departments' policy staff could not understand the illustration, it would be hard for an uninitiated consumer to understand it. It seemed that, because of the complexity of illustrations, the use of current scale assumptions could not be included in illustrations and still be understandable by consumers without the aid of an agent. The group voted to recommend that illustrations of future performance be limited to guarantees only. The group also voted to allow illustration of past performance using a common index for comparison purposes. **1994 Proc. 1st Quarter 365-366.**

In a written submission, technical resource advisors argued that showing guarantees only limited life insurance to the worst case scenario. The only way a buyer can accurately see how an insurance policy works is through an illustration of both guaranteed and not guaranteed elements. **1994 Proc. 1st Quarter 368-369.**

After consideration of a draft allowing projections of guarantees only into the future, the working group planned to offer two alternative models: one with guarantees only and one that allowed projections into the future of non-guaranteed elements. Some regulators were very much opposed to illustrations of non-guaranteed elements and other regulators supported that approach. **1994 Proc. 3rd Quarter 575.**

Several members of the working group were interested in a suggestion to consider projections into the future for only a few years of the non-guaranteed elements, and the projection further into the future of standardized assumption or guarantees. This would allow the company to show how its policy works without the problems of projecting non-guaranteed elements far into the future. **1994 Proc. 3rd Quarter 564.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7E (cont.)

The meeting attendees did not look upon the idea of standardized assumptions as favorably as some of the regulators. One expressed concern that a company with a poor record would look significantly better in that type of illustration. An agent said it would be one more thing to explain to the consumer, one more step from reality. He thought it was better to sensitize the applicant to the possibility of change. A company actuary said a five year cutoff before standardized assumptions would encourage companies to postpone their expenses until later years to make the early numbers higher. **1994 Proc. 3rd Quarter 565-566.**

An actuary offered to do some testing of standardized assumptions. He said variations other than interest were difficult. In his samples the results were very different in the situations where the company used the portfolio method of crediting or the new money method. He said in some instances his analysis required a standardized assumption to be higher than current scale. He recommended not using standardized assumptions. A representative from the Actuarial Standards Board said standardization would not work unless companies were allowed to grade up as well as down. A regulator pointed out that, if the working group did not allow standardized illustrations higher than the current scale, it would actually eliminate the new money method because it could cause an unlevel playing field. The chair said he was reluctant to force companies to use one method or the other. **1994 Proc. 4th Quarter 674-675.**

At the working group's next meeting standardized assumptions were again discussed. One regulator opined that, since companies were not allowed to project improvements or use lapse-supported pricing, most of the abuse would be corrected. He wondered if it was necessary to build in this provision also. The chair of the group said he was swayed by the argument that the addition of standardized assumptions would tend to confuse people. The working group voted to show guarantees and the disciplined current scale without standardized assumptions. **1994 Proc. 4th Quarter 669.**

A new member of the working group who had not participated in the prior discussion suggested grading to standardized assumptions. She saw several advantages: it eliminated the portfolio versus new money problem, the numbers created by the illustration would be more reasonable, and it might actually create a situation where the company's results would be above illustrated values. She also said this would minimize the need for in force illustrations. Another working group member explained that the group had discussed standardized assumption at some length and had been unable to resolve its concerns. **1995 Proc. 1st Quarter 497.**

Near the end of the drafting process the regulators made adjustments to Subsection E for term insurance. The working group considered whether it was necessary for annually renewable term to show every year to age 100, and the working group decided that this was appropriate if the premium would change. In addition, the group decided that when a guaranteed benefit would end, zeros should be shown. **1995 Proc. 2nd Quarter 539.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 7E (cont.)

Just before adoption the requirement for term insurance was changed to allow illustration of term insurance for years 1-20, and each five years beyond that and any years in which the premium outlay changed. **1995 Proc. 3rd Quarter 678.**

After hearing a comment that Paragraph (1)(a) would allow great deviation if the premium outlay was paid monthly and illustrated on an annual basis, the drafters added the words “and mode” after “premium outlay.” **1995 Proc. 3rd Quarter 678.**

When the reference to persistency bonuses was eliminated from the model, Paragraph (3) was added to limit the illustration of non-guaranteed elements to only those described in the contract. This way persistency bonuses could only be shown if they were described in the contract. **1995 Proc. 3rd Quarter 678.**

Section 8. Standards for Supplemental Illustrations

One of the problems discussed early in the drafting process was how to address the situation where a company wanted its agents to use a basic illustration, but the agent wanted to use, for example, a split dollar illustration. One company representative suggested that the agent use a basic illustration and then further illustrations to show options. **1994 Proc. 3rd Quarter 565.**

When discussing the format of an illustration, one regulator suggested the illustration begin by showing the mechanics of the policy followed by further illustrations of how the policy would be used. **1994 Proc. 4th Quarter 674.**

A question arose about the requirement for serialization of pages when there was a basic illustration and supplemental illustration. A regulator pointed out that the pagination was required of the basic illustration, and not the supplemental illustration. **1994 Proc. 4th Quarter 668.**

A regulator expressed concern that illustration of an insurance product might be combined with illustration of, for example, a mutual fund. He thought it was important that this not be allowed. The working group members agreed that the illustration contemplated in this model referred only to life insurance and a complying illustration would not include a mutual fund. **1995 Proc. 3rd Quarter 678.**

A. An interested party suggested that the model should be clarified to say a basic illustration must always be given out with a supplemental illustration. The working group clarified that intention. **1995 Proc. 1st Quarter 499.**

The working group considered whether it was important that the contract premium in a supplemental illustration be equal to the contract premium in a basic illustration. One member of the working group pointed out that a big advantage of a supplemental illustration is that it is not necessary to show the guarantees. What offsets that is that the illustration may be required to have premium payments shown that are not expected to be used. Paragraph (4) was added to express that concept. **1995 Proc. 2nd Quarter 539.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 9. Delivery of Illustration and Record Retention

The working group received one comment that said the model was inconsistent in that a policy form could be designated as one to market without an illustration, but Section 9 contained requirements for an illustration at policy delivery. The group decided this was not unclear; if a company designated a policy form as one to market without an illustration; the model did not apply to that policy form. **1995 Proc. 4th Quarter 780.**

B. A provision was added to the model to provide that the applicant be informed to expect another illustration if the policy was not applied for as illustrated. The applicant was to acknowledge that he had not yet received an illustration conforming to the policy and that he understood one would be issued. **1995 Proc. 2nd Quarter 539.**

C. Industry representatives stated a concern that if an illustration was delivered by mail with the policy form, it would be very difficult to get a signature for the file; it would be very difficult to get a signed statement back if the agent did not make personal delivery of the policy. Some regulators expressed surprise that the company and agent would not be extremely interested in getting back a signed statement because otherwise it would be more difficult to demonstrate that the policy owner received and understood the illustration. Consideration was given to certified mail and other methods of demonstrating a general business practice. The working group agreed it would be sufficient to require a diligent effort instead of specifying how the signature was obtained. The insurer should be able to document in its files that it had made a sincere effort to get a signed statement. **1995 Proc. 2nd Quarter 539.**

D. A market conduct examiner said he would want to see in the file any illustration that had been used, so that the market conduct examiner was able to track the whole process. The chair agreed that the only way to know what was being said was to require the use of an illustration and to require that it be documented in the file by asking the applicant to sign it. **1995 Proc. 1st Quarter 480.**

Section 10. Annual Report; Notice to Policyholders

A. The position paper drafted to help define the working group's goals recognized the importance of providing the policyholder with up-to-date information. The drafters said that when underlying assumptions changed, the policyholder should be notified. The goal was a requirement that at least annually a new illustration should be prepared showing projections using the current assumptions, if there were any changes. The regulators found it reasonable and appropriate to indicate to the policyholder that the assumptions on which the original illustration were based are no longer true. **1993 Proc. 3rd Quarter 446.**

When the working group next considered the issue of sharing information with current policyholders when the assumptions changed, one insurer representative said he favored this. Another insurer representative said sending an illustration to everyone would be incredibly expensive, and in her company policyholders were told they could ask for a new illustration. Another company representative said that if his company sent out one and one-half million unsolicited illustrations, it would do nothing but create confusion. **1993 Proc. 4th Quarter 656.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 10A (cont.)

The first draft requiring an annual report to the policyholders but did not describe how the report should look. One regulator suggested that the insured get a summary similar to that at the beginning of the sample illustration provided to the working group. Another regulator opined that it was important for the insured to at least know when the funds would run out and the policy lapse for an indeterminate fund-based plan. A commissioner added that consumers should know if the assumptions into the future were less than had been originally illustrated. He suggested sending a smaller version of the illustration every year. The chair summarized the three possible levels that could be required: (1) a status report of the current results; (2) a brief form of a basic illustration; or (3) a special illustration corresponding to any supplemental illustrations used. The working group voted to include a requirement that on an annual basis the insured get an updated status report and a brief illustration based on the current scale, with specific notice of any changes in the assumptions used since the last illustration. A consumer representative suggested that regulators make very clear to insureds that they can get more information. An actuary said that research indicated some fairly large companies may have difficulty in providing this type of information. The chair pointed out that the current life cycle of a computer system is about five years, so most companies would have ample time to reprogram before their first annual report was due. An interested party pointed out that it is not helpful to consumers to get too much paper. **1994 Proc. 4th Quarter 657-658.**

At the next opportunity for comment on the issue the chair said he saw the annual updated illustration as a tool to add discipline to the illustration process and to raise the overall quality of the product. A representative of a small company association said many of his organization's members did not have money available to set up the complex computer systems that would be required. **1995 Proc. 1st Quarter 495.**

The working group identified the need to specify the contents of the annual report. Paragraphs (1) and (2) were added to identify those requirements. **1995 Proc. 2nd Quarter.**

Paragraph (3) was added to exempt policies without nonforfeiture values from the requirement to send an annual report every year if no changes had occurred. **1995 Proc. 3rd Quarter 678.**

B. When decided whether or not to require an annual updated illustration, one regulator said he would hate to have the "report card" turn into a deficiency notice. An interested party agreed that it was important to prepare the document carefully so that it did not give the impression to the policyholder that his policy had been an incorrect purchase because this would increase lapses. A regulator responded that he thought it would increase persistency if the policyholder had a report he could use to compare to any proposals for new policies. **1994 Proc. 4th Quarter 670.**

One working group member said she was persuaded that a notice alerting policyholders if there had been any change that would adversely affect the policy would be more appropriate than an annual in force illustration. An NAIC consultant said buyers had not been educated that an in force illustration is available. She thought a notice to them regularly would help make them aware and educate the consumers. **1995 Proc. 1st Quarter 495.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

All references are to the Proceedings of the NAIC

Section 10B (cont.)

Another regulator expressed concern that if a company disregarded a request for information, there would be no evidence for a market conduct examiner that a request had been made. Another working group member responded that the notice could contain three sources: the agent's name and number, the company's telephone number and the insurance department's telephone number. The working group voted to require an annual status report and a bold notice that includes necessary information as to how to obtain an updated illustration. **1995 Proc. 1st Quarter 496.**

The working group decided later to delete the requirement for the agent's telephone number so that a generic form could be prepared by the insurer. It also was made clear that the insurer could change the order of the list of parties to contact to request an illustration. **1995 Proc. 2nd Quarter 539.**

Just before adoption the consumer notice was changed to replace "in force" with "current" illustration. "In force" was technical jargon a consumer would not necessarily understand. **1995 Proc. 4th Quarter 780.**

Section 11. Actuarial Certification

After reviewing a suggested draft prepared by a trade association, one regulator said he liked the emphasis in that draft on the actuary's responsibilities. He said in many cases the marketing staff has been in control, and he felt the actuary needed to have more input in setting standards. The regulator suggested putting the actuary's name on the illustration and said the actuary would make sure the numbers used in the illustration were supportable because his name and professional reputation were on the line. **1994 Proc. 3rd Quarter 564.**

When discussing the addition of an actuary's signature to the illustration, one technical advisor expressed concern with the administrative complexity of adding another signature to the illustration. Another advisor said the actuary could provide some discipline to the illustration process with standards established by the Actuarial Standards Board. A company representative suggested the same could be achieved by filing an actuarial statement with the department. **1994 Proc. 3rd Quarter 565.**

Later in the drafting process, several regulators expressed the opinion that requiring the actuary and a company officer to sign the illustration added little if anything to the responsibility of the company. The group voted to have the company officer and actuary provide certification to the insurance department that the actuarial standards had been met in preparing the illustrations, rather than requiring signatures on each illustration. **1994 Proc. 4th Quarter. 669-670.**

A. A member of the working group suggested having an "illustration actuary" who must be appointed by the company. This would have the advantage of requiring the person who had the best information, but avoid giving a company the opportunity to shop around for someone to sign the illustration. The chair also suggested not using the term "appointed." He said there was already a body of literature on what an appointed actuary is and it all refers to a valuation actuary. **1995 Proc. 4th Quarter 675.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

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Section 11A (cont.)

When reviewing the draft of the definition of an illustration actuary, the working group chair said it must be clear that the illustration actuary is appointed by and answers to the board of directors. The working group decided to place all the requirements for the illustration actuary in Section 11 of the model. **1995 Proc. 1st Quarter 480.**

The working group was asked if a company could appoint more than one illustration actuary. The working group agreed that it was possible that more than one actuary could be appointed and each report to the board of directors. It was decided the actuary should be named for a specific product line. **1995 Proc. 2nd Quarter 539.**

C. The working group decided to add similar requirements to the model as those for a valuation actuary contained in the Actuarial Opinion and Memorandum Regulation. **1995 Proc. 1st Quarter 493.**

A sentence was added to Paragraph (5) requiring disclosure by the illustration actuary if the currently payable scale had been reduced during the past five years for reasons other than changes in the experience factors underlying the disciplined current scale. **1995 Proc. 3rd Quarter 678.**

The working group agreed to allow illustrations based on one of three levels of expenses: fully allocated expense, which the group felt most comfortable with; or marginal expenses, which include the direct expenses of the product but no overhead; as long as they are not less than a table created from industry overages for fully allocated expenses. A requirement was added to require the actuary to disclose the choice of expense allocation in the annual certification. **1995 Proc. 3rd Quarter 674, 687.**

A regulator asked if the same allocation method must be used for all forms the company sells. The chair responded that the company would choose one method and use it across the board. Another regulator reminded the group that the discussion only applies to illustrations, not to company pricing. **1995 Proc. 4th Quarter 780.**

D. At one point the draft model contained a requirement for a new filing each time the scale changed. The working group decided it was not necessary to certify each time a change was made, but at the end of the year certification would be made that the scale or scales used during the entire previous year had been appropriate. **1995 Proc. 2nd Quarter 539.**

F. An early draft contained a provision requiring the company to certify that no noncomplying illustrations had been used. A technical resource advisor said the provision as worded made the company responsible for things it didn't even know about. Another agreed that companies did not want to accept liability for something they had no control over. **1995 Proc. 1st Quarter 498.**

The subsection was revised to clarify that the officer certified that the format followed the requirements of the regulation and that the scales used were those certified by the actuary. **1995 Proc. 3rd Quarter 678.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

Proceedings Citations

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Section 11F (cont.)

The first draft containing reference to a generally recognized expense table required disclosure in the illustration so that an applicant was aware of the expense allocation method used. **1995 Proc. 3rd Quarter 679, 682.**

Several comments were received arguing that it would be difficult to frame disclosure to an individual in a manner most consumers could understand. The drafters decided to replace the requirement for disclosure to individual applicants with a certification that agents had been made aware of the expense allocation method use by the company. **1995 Proc. 4th Quarter 779.**

G. Subsection G was changed shortly before adoption to allow the insurer to determine the date for filing its annual certification, rather than having the commissioner prescribe the date. This would be useful for companies that were not on a calendar year. **1995 Proc. 3rd Quarter 678.**

H. A commissioner pointed out that a sudden change in a company's illustration actuary might be a red flag to regulators, just as when a company suddenly changes accounting firms. The working group decided to add a requirement to notify the commissioner if the illustration actuary changed. **1995 Proc. 1st Quarter 481.**

Section 12. Penalties

The position paper drafted to help define the working group's goals said that penalties for failure to generate supportable illustrations or to update them at least annually should be included in any solution to the current problems with illustrations. The paper suggested an appropriate penalty may be to require payments based on the illustrations as prepared, if higher than actual experience. **1995 Proc. 3rd Quarter 446.**

An early draft gave the commissioner authority to require insurers illustrating benefits that were not supportable to pay benefits based on their illustrations. There was support from some members of the working group for deleting or modifying this requirement because it would require the commissioner to make a determination of which illustration or practices would merit the payment of illustrated benefits. **1993 Proc. 4th Quarter 653.**

After achieving consensus on the set of guiding principles, the working group drafted a model act to provide states with the authority to adopt provisions. One regulator asked if the act would become part of the unfair trade practices act and said he thought it would be important to include a provision for a private cause of action. This would address one of the concerns noted in the position paper, that of insufficient penalties for violation. **1993 Proc. 4th Quarter 654.**

LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

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Section 12 (cont.)

The first draft did include a private cause of action. A consumer representative spoke in favor of it because it provided consumers and regulators with an additional remedy. Insurer representatives spoke against the provision saying it would have a chilling effect, and would harm the entrepreneurial spirit evident in the small insurance companies. **1993 Proc. 4th Quarter 652.**

A regulator pointed out that a provision for a private cause of action is a major departure from NAIC policy, and after extensive discussion, the working group decided to take out that provision. **1993 Proc. 4th Quarter 653.**

Section 13. Separability

Section 14. Effective Date

When the working group was discussing a requirement for an annual report, one interested party asked if the requirement would apply to new policies or to every one the insurer had ever sold. The chair responded that it was the view of the working group that the requirements should apply to policies issued after the effective date of the regulation, but some comments suggested insurers voluntarily might provide them for all once the capacity was in place. **1995 Proc. 1st Quarter 495.**

The working group was asked to consider an effective date of January 1 following the year of adoption by a state. The regulators decided that initially some time would be needed to allow companies to put into place the appropriate procedures but, once those procedures were in place, a delayed effective date would no longer be necessary. **1995 Proc. 2nd Quarter 539.**

Chronological Summary of Actions

December 1995: Adopted new model to regulate illustrations of non-variable life insurance.