

Part 2 Chapter 9: (84-106) Universal Life Regulation.

Rule 9.01: Preamble and Authority

I, George Dale, duly elected Commissioner of Insurance of the State of Mississippi, pursuant to the authority granted in me in Section 83-7-25, Mississippi Code of 1972, as Amended, and in accordance with Sections 25-43-1 through 25-43-19, Mississippi Code of 1972, known as the Mississippi Administrative Procedure Law, do hereby promulgate the following Rules and Regulation with an effective date as herein set forth in Section 9.12, upon compliance with the applicable statutes.

Source: Miss. Code Ann. §§ 83-5-1; 83-7-23; 83-7-25 (Rev 2011)

Rule 9.02: Purpose

The purpose of this regulation is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans.

Source: Miss. Code Ann. §§ 83-5-1; 83-7-23; 83-7-25 (Rev 2011)

Rule 9.03: Definitions

As used in this regulation:

A. Universal Life Insurance Policy.

“Universal life insurance policy” means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

B. Flexible Premium Universal Life Insurance Policy.

“Flexible premium universal life insurance policy” means a universal life insurance policy which permits the policyowner to vary, independently of

each other, the amount or timing of one or more premium payments or the amount of insurance.

C. Fixed Premium Universal Life Insurance Policy.

“Fixed premium universal life insurance policy” means a universal life insurance policy other than a flexible premium universal life insurance policy.

D. Interest-Indexed Universal Life Insurance Policy.

“Interest-indexed universal life insurance policy” means any universal life insurance policy where the interest credits are linked to an external referent.

E. Net Cash Surrender Value.

“Net Cash Surrender Value” means the maximum amount payable to the policyowner upon surrender.

F. Cash Surrender Value.

“Cash Surrender Value” means the Net Cash Surrender Value plus any amounts outstanding as policy loans.

G. Policy Value.

“Policy Value” means the amount of which separately identified interest credits and mortality, expense, or other charges are made under a universal life insurance policy.

H. May.

“May” is permissive.

I. Shall.

“Shall” is mandatory.

J. Commissioner.

“Commissioner” means the Commissioner of Insurance for the State of Mississippi.

Source: Miss. Code Ann. § 83-5-1(Rev. 2011)

Rule 9.04: Scope

This regulation encompasses all individual universal life insurance policies except those policies defined under Section 2(s) of the Mississippi Variable Life Insurance Regulation Number 84-101.

Source: Miss. Code Ann. § 83-5-1(Rev. 2011)

Rule 9.05: Valuation

A. Requirements.

1. The minimum valuation standard for universal life insurance policies shall be the Commissioners Reserve Valuation Method, as described below for such policies, and the tables and interest rates specified below. The terminal reserve for the basic policy and any benefits and/or riders for which premiums are not paid separately as of any policy anniversary shall be equal to the net level premium reserves less (C) and less (D), where:

Reserves by the net level premium method shall be equal to $((A)-(B))r$ where (A), (B) and r are as defined below:

(A) is the present value of all future guaranteed benefits at the date of valuation.

(B) is the quantity $\frac{PVFB}{a_x} a_x + t$, where PVFB is the present value of all benefits at issue assuming future Guaranteed Maturity Premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.

a_x and a_{x+t} are present values of an annuity of one per year payable on policy anniversaries beginning at ages x and $x+t$, respectively, and continuing until the highest attained age at which a premium may be paid under the policy. (x) is defined as the issue age and (t) is defined as the duration of the policy.

The Guaranteed Maturity Premium for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy on the latest maturity date, if any, permitted under the policy (otherwise at the highest age in the valuation mortality table), for an amount which is in accordance with the policy structure. The Guaranteed Maturity Premium is calculated at issue based on all policy guarantees at issue (excluding guarantees linked to an external referent). The Guaranteed Maturity Premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at issue provides the minimum policy guarantees.

\bar{v} is equal to one, unless the policy is a flexible premium policy and the policy value is less than the Guaranteed Maturity Fund, in which case \bar{v} is the ratio of the policy value to the Guaranteed Maturity Fund.

The Guaranteed Maturity Fund at any duration is that amount which, together with future Guaranteed Maturity Premiums, will mature the policy based on all policy guarantees at issue.

(C) is the quantity $((a)-(b))\frac{a_{x+t}}{a_x}$ where $(a)-(b)$ is as described in (Section Four of the Standard Valuation Law, as amended in 1980) for the plan of insurance defined at issue by the Guaranteed Maturity premiums and all guarantees contained in the policy or declared by the insurer.

a_{x+t} and a_x are defined in (B) above.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The Guaranteed Maturity Premium, the Guaranteed Maturity Fund and (B) above shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the descriptions above.

Future guaranteed benefits are determined by (1) projecting the greater of the Guaranteed Maturity Fund and the policy value, taking into account future guaranteed Maturity Premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (1) and interest rate (or rates) specified by (the Standard Valuation Law, as amended in 1980) for policies issued in the same year; (ii) the mortality rates specified by (the Standard Valuation Law, as amended in 1980) for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose; and (iii) any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

B. Alternative Minimum Reserves.

1. If, in any policy year, the Guaranteed Maturity Premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of (a) or (b).

(a) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

(b) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of

interest and replacing the valuation net premium by the Guaranteed Maturity Premium in each policy year for which the valuation net premium exceeds the Guaranteed Maturity Premium.

For universal life insurance reserves on a net level premium basis, the valuation net premium $\frac{PVFB}{a_x}$ and for reserves on a Commissioners Reserve Valuation Method, the valuation net premium is $\frac{PVFB}{a_x} + \frac{(a)-(b)}{a_x}$.

Source: Miss. Code Ann. § 83-7-23 (Rev. 2011)

Rule 9.06: Nonforfeiture

A. Minimum Cash Surrender Values for Flexible Premium Universal Life Insurance Policies.

1. Minimum cash surrender values for flexible premium life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of (i) the benefit charges, (ii) the averaged administrative expense charges for the first policy year and any insurance-increase years, (iii) actual administrative expense charges for other years, (iv) initial or additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively, (v) any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit) and (vi) any deductions made for partial withdrawals; all accumulations being at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

Interest on the premiums and on all charges referred to in items (i)-(iv) above shall be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the policy value.

The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the Commissioner shall have the right to require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.

The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the policy value.

The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increased year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

The initial expense allowance shall be the allowance provided by (items (ii), (iii), and (iv) of section five) or by (items (ii) and (iii) of section five-c(1)), as applicable, of (the Standard Nonforfeiture Law for Life Insurance, as amended in 1980) for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table, The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined above.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with the above and with (Section five-c(5) of the Standard Nonforfeiture Law for Life Insurance as amended in 1980), using the face amount and the latest maturity date permitted at that time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age $x+t$ (where x is the issue age) shall be the unused initial expense allowance multiplied by $\frac{a_{x+t}}{a_x}$ where a_{x+t} and a_x are present values of an annuity of one per year payable on policy anniversaries beginning at ages $x+t$ and x , respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with a_x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

B. Minimum Cash Surrender Values for Fixed Premium Universal Life Insurance Policies.

1. For fixed premium universal life insurance policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to ((A)-(B)-(C)-(D)), where:

(A) is the present value of all future guaranteed benefits.

(B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in [sections 5 and 5-a or in paragraph (1) of section 5-c], as applicable, of [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980]. If section 5-c, paragraph (1) is applicable, the non-forfeiture net level premium is equal to the quantity $\frac{PVFB}{a_x}$, where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policy owner and all guarantees contained in the policy or declared by the insurer.

a_x is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(C) is the present value of any quantities analogous to the non-forfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. a_x shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(D) is the sum of any quantities analogous to (B) which arise because of structural changes in the policy.

Future guaranteed benefits are determined by (1) projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (i) an interest rate (or rates) specified by [the Standard Non-forfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year and (ii) the mortality rates specified by [the Standard Non-forfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose.

C. Minimum Paid-Up Nonforfeiture Benefits.

1. If a universal life insurance policy provides for the optional election of paid-up nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policy owner as (1) in the case of a flexible premium universal life insurance policy, the mortality and interest standards permitted for paid-up nonforfeiture benefits by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980]. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

Source: Miss. Code Ann. § 83-7-25 (Rev. 2011)

Rule 9.07: Mandatory Policy Provisions

The policy shall provide the following:

- A. Periodic Disclosure to Policyowner.

The policy shall provide that the policy owner will be sent, without charge, at least annually, a report which will serve to keep such policy owner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report. Specific requirements of this report are detailed in Section 9.

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B. Illustrative Reports.

The policy shall provide for an illustrative report which will be sent to the policy owner upon request. Minimum requirements of such report are the same as those set forth in Section 8. The insurer may charge the policy owner a reasonable fee for providing the report.

C. Policy Guarantees.

The policy shall provide guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy shall be based on guarantees. No figures based on non-guarantees shall be included in the policy.

D. Calculation of Cash Surrender Values.

The policy shall contain at least a general description of the calculation of cash surrender values including the following information:

1. The guaranteed maximum expense charges and loads.
2. Any limitations on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than twenty-four (24) months.
3. The guaranteed minimum rate or rates of interest.
4. The guaranteed maximum mortality charges.

5. Any other guaranteed charges.
6. Any surrender or partial withdrawal charges.

E. Changes in Basic Coverage.

If the policy owner has the right to change the basic coverage, any limitation on the amount or timing of such change shall be stated in the policy. If the policy owner has the right to increase the basic coverage, the policy shall state whether a new period of contestability and/or suicide is applicable to the additional coverage.

F. Grace Period and Lapse.

The policy shall provide for written notice to be sent to the policy owner's last known address at least thirty days prior to termination of coverage.

A flexible premium policy shall provide for a grace period of at least thirty days after lapse. Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value first equals zero.

G. Misstatement of Age or Sex.

If there is a misstatement of age or sex in the policy, the amount of the death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex. The Commissioner may approve other methods which are deemed satisfactory and not in conflict with Section 83-7-15, Mississippi Code of 1972.

H. Maturity Date.

If a policy provides for a "maturity date," "end date," or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

Rule 9.08: Disclosure Requirements

A. In connection with any advertising, solicitation, negotiation, or procurement of a universal life insurance policy:

1. Any statement of policy cost factors or benefits shall contain:

a. The corresponding guaranteed policy cost factors or benefits, clearly identified.

b. A statement explaining the nonguaranteed nature of any current interest rates, charges, or other fees applied to the policy, including the insurer's rights to alter any of these factors.

c. Any limitations on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.

(Note: Policy cost factors are those amounts which affect the price per thousand of life insurance coverage of other benefits. They include: interest, mortality, expense charges and fees, including any surrender or withdrawal charges, but not persistency assumptions.)

2. Any illustration of the policy value shall be accompanied by the corresponding net cash surrender value.

3. Any statement regarding the crediting of a specific current interest rate shall also contain the frequency and timing by which such rate is determined.

4. If any statement refers to the policy being interest-indexed, the index shall be described. In addition, a description shall be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.

5. Any illustrated benefits based upon nonguaranteed interest, mortality, or expense factors shall be accompanied by a statement indicating that these benefits are not guaranteed.

6. If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted prior to the policy's maturity date, such fact shall be disclosed, including notice that coverage will terminate under such circumstances.

Source: Miss. Code Ann. §§83-5-1; 83-7-25 (Rev. 2011)

Rule 9.09: Periodic Disclosure to Policy owner

A. Requirements.

The policy shall provide that the policy owner will be sent, without charge, at least annually, a report which will serve to keep such policy owner advised of the status of the policy. The end of the current report period shall be not more than three months previous to the date of the mailing of the report.

Such report shall include the following:

1. The beginning and end of the current report period.
2. The policy value at the end of the previous report period and at the end of the current report period.
3. The total amounts which 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).
4. The current death benefit at the end of the current report period on each life covered by the policy.
5. The net cash surrender value of the policy as of the end of the current report period.
6. The amount of outstanding loans, if any, as of the end of the current report period.
7. 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.

8. 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.

Source: Miss. Code Ann. §§ 83-5-1; 83-7-25 (Rev. 2011)

Rule 9.10: Interest-Indexed Universal Life Insurance Policies

A. Initial Filing Requirements.

The following information shall be submitted in connection with any filing of interest-indexed universal life insurance policies ("interest-indexed policies"). All such information received shall be treated confidentially to the extent permitted by law.

1. A description of how the interest credits are determined, including:
 - a. a description of the index.
 - b. the relationship between the value of the index and the actual interest rate to be credited.
 - c. the frequency and timing of determining the interest rate.
 - d. the allocation of interest credits, if more than one rate of interest applies to different portions of the policy value.
2. The insurer's investment policy, which includes a description of the following:
 - a. how the insurer addressed the reinvestment risks.
 - b. how the insurer plans to address the risk of capital loss on cash outflows

- c. how the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities.
 - d. how the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy.
 - e. the amount and type of assets currently held for interest-indexed policies.
 - f. the amount and type of assets expected to be acquired in the future.
3. If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.
 4. A description of any interest guarantee in addition to or in lieu of the index.
 5. A description of any maximum premium limitations and the conditions under which they apply.

B. Additional Filing Requirements.

1. Annually, every insurer shall submit a Statement of Actuarial Opinion by the insurer's actuary similar to the example contained in subsection C of this Section.
2. Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.
3. Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (i.e., any change in the information supplied in Section 1 above) or if it would significantly change the amount or type of assets held for interest-indexed policies.

C. Statement of Actuarial Opinion for Interest-Indexed Universal Life Insurance Policies.

I, _____, am _____
 (name) (position or relationship to Insurer)

_____ for the XYZ Life Insurance Company in the state of
 (The insurer)

(State of Domicile of Insurer)

I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial opinions).

I have examined the interest-indexed universal life insurance policies of the Insurer in force as of December 31, 19__, encompassing _____ number of policies and \$_____ of insurance in force.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the Insurer as they affect future insurance and investment cash flows under such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the Insurer and on projected investment cash flows as provided by _____, Chief Investment Officer of the Insurer.

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates.

In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the Insurer under these insurance policies.

Signature of Actuary

Source: *Miss. Code Ann.* §§ 83-5-1; 83-7-23 (Rev. 2011)

Rule 9.11: Separability

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

Source: *Miss. Code Ann.* § 83-5-1(Rev. 2011)

Rule 9.12: Effective Date

This regulation shall become effective thirty (30) days after its adoption and filing with the Mississippi Secretary of State's Office, as required by law.

PROMULGATED AND ADOPTED, this the 13th day of August, 1984.

Source: Miss. Code Ann. § 25-43-3.113 (Rev. 2011)

89102reg

Part 2 Chapter 10: (89-102) Regulation of Certain Payments with Respect to Credit Life and Credit Disability Insurance.

Rule 10.01: Statutory Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted by Mississippi Code Annotated, Sections 83-53-29, 83-17-229 and in accordance with the Mississippi Administrative Procedures Law. Section 83-53-29 grants the Commissioner authority to “issue any rules and regulations that he deems necessary to effectuate the purposes of this chapter (the credit insurance chapter of the Mississippi Code Annotated).” Section 83-17-129 states that the “Commissioner is hereby authorized to establish such rules and regulations as shall be necessary for the administration of this article (the article of the Mississippi Code Annotated entitled “Regulation of Agents for Life, Health, or Accident Insurers”).” Section 83-17-229 provides that “the employees or officers of a lending institution or holding company, or the subsidiary or affiliate of a lending institution or holding company, may be licensed to sell credit life, health and accident insurance on behalf of his employer in accordance with regulations promulgated by the insurance commissioner.” This Regulation is promulgated by the Commissioner pursuant to his full authority to regulate the payment of compensation to agents and to others in connection with the sale of credit insurance as set out in the above statutes.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

Rule 10.02: Purpose

The Commissioner is aware of the decision of the Mississippi Supreme Court in Tew vs. Dixieland Finance, Inc., 527 So. 2d 665 (Miss. 1988), in which the Court addressed certain issues concerning the licensing of agents to write credit life and credit disability insurance and payments made in connection with writing such insurance. The Court stated that it was delaying the effect of its decision with respect to those issues until July 1, 1989, in order to provide the executive and legislative branches of the government of the State of Mississippi with an opportunity to take measures to resolve what the Court considered to be inconsistencies in the statutes and regulations concerning the licensing of agents and payment of compensation with respect to credit life and credit disability insurance. The purpose of this Regulation is to clarify and regulate what persons or entities may receive compensation payments made in connection with the issuance of credit life and credit disability insurance and/or the manner in which such payments may be received by licensed agents, creditors, corporations or other persons or entities involved in credit transactions.

Mississippi Code Annotated, Section 83-17-105 states that “no insurer or agent doing business in this state shall pay, directly or indirectly, any commission or any other valuable consideration to any person for services as an agent within this state unless such person shall hold a currently valid license and certificate of authority to act as an agent, as required by the laws of this State

(emphasis added).” Mississippi Code Annotated, Section 83-17-7 contains a similar prohibition. Mississippi Code Annotated, Section 83-17-101(a), however, states that “the possessor of an insurable interest in any risk or subject of insurance shall not be deemed an agent by reason of procuring or maintaining, or agreeing to procure or maintain, insurance extending to such interests, together with the interest or interests of others in such risk or subject of insurance, however the cost may be borne.” The Mississippi Legislature clearly contemplated that creditors can receive compensation from the sale of credit insurance. Mississippi Code Annotated, Section 83-53-25 makes this fact clear. The Commissioner interprets these four sections together and has determined that the prohibitions contained in Mississippi Code Annotated, Sections 83-17-7 and 83-17-105 do not apply in certain contexts involving credit insurance.

Many creditors offer credit insurance in connection with sale or lease transactions in which the creditor to a purchaser or lessee of goods or in connection with transactions in which the creditor makes a loan to a borrower. Credit life insurance is designed to “pay off the loan obligation if the insured borrower or co-borrower dies. Credit disability insurance provides a monthly benefit equal to the loan’s monthly payment if the primary borrower is disabled.” Fagg, Credit Life and Disability Insurance, XIV (1986). These creditors are required by law to offer credit insurance only through employees or other agents of the creditor licensed to write such insurance. By its nature, credit insurance is designed to protect both the creditor and the borrower from the risk of the borrower’s death or disability. The creditor’s interest in the transaction is that the extension of credit be repaid. Therefore, the Commissioner finds that the creditor in a credit transaction is the possessor of an insurable interest. The Commissioner further finds that the purchase and sale of credit insurance in connection with such a credit transaction is designed to protect the creditor’s insurable interest in the transaction as well as the insurable interest of the debtor in the credit transaction. The Commissioner also finds that payments of compensation by a licensed employee or other agent of a creditor in a credit transaction to the creditor are not payments made in violation of Mississippi Code Annotated, Sections 83-17-7 and 83-17-105; such payments are not made to the creditor for the creditor’s “service as an agent” since the creditor is not acting as an agent when procuring or arranging to procure insurance to protect its own insurable interest as provided by Mississippi Code Annotated, Section 83-17-101(a).

Many lending institutions and other entities covered by the Lending Institutions Act (Mississippi Code Annotated, Section 83-17-227 through 83-17-233) offer credit insurance in connection with loans and other credit transactions. Such an institution or entity is a creditor in a credit transaction and the possessor of an insurable interest. As noted above, Mississippi Code Annotated, Section 83-17-229 provides that “the employees or officers of a lending institution or holding company, may be licensed to sell credit life, health and accident insurance for and on behalf of his employer in accordance with regulations promulgated by the insurance commissioner.” Pursuant to this regulatory authority, the Commissioner finds that the “for and on behalf” language authorizes a lending institution or holding company, to receive compensation in connection with the sale of credit insurance without being licensed to sell such insurance, provided an officer or employee of the lending institution or holding company or a subsidiary or affiliate of the lending institution or holding company is licensed to sell such insurance. The Commissioner also finds that the prohibitions contained in Mississippi Code

Annotated, Sections 83-17-7 and 83-17-105 do not apply to such lending institutions, holding companies, subsidiaries or affiliates meeting the above standard.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

Rule 10.03: Applicability and Scope

This Regulation shall apply to all insurers and agents licensed to sell credit life and credit disability insurance and to the employers and affiliates of such agents acting as creditors, including lending institutions and other entities covered by the Lending Institutions Act (Mississippi Code Annotated, Sections 83-17-227 through 83-17-223), in credit transactions in connection with which there is a sale or purchase of a policy or certificate of credit life or credit disability insurance.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

Rule 10.04: Definitions

- A. “Creditor” shall have the same meaning as defined in Mississippi Code Annotated, Section 83-53-3(2)(d).
- B. “Credit insurance” shall mean the credit life insurance as defined in Mississippi Code Annotated, Section 83-53-3(2)(b) and credit disability insurance as defined in Mississippi Code Annotated, Section 83-53-3(2)(c).
- C. “Compensation” shall have the same meaning as defined in Mississippi Code Annotated, Section 83-53-25(2) and (3).
- D. “Insurer” shall have the same meaning as defined in Mississippi Code Annotated, Section 83-53-3(2)(g).
- E. “Lending institution” shall have the same meaning as defined in Mississippi Code Annotated, Section 83-17-227(a).
- F. “Holding company” shall have the same meaning as defined in Mississippi Code Annotated, Section 83-17-227(c).

Source: Miss. Code Ann. §§ 83-53-3 and 83-53-29 (Rev. 2011)

Rule 10.05: Regulation of Certain Payments in Connection with the Sale of Credit Life and Credit Disability Insurance

Compensation paid in connection with the purchase or sale of credit insurance may be paid (i) by an insurer to a person or other entity licensed as an agent to write credit insurance, (ii) by an insurer to the creditor in the transaction in connection with which the credit insurance was purchased or sold, or (iii) by an employee or other person or entity licensed to write credit insurance to the creditor in the transaction in connection with which the credit insurance was purchased or sold, or (iv) by an insurer or by an employee or other person or entity licensed to write credit insurance to a lending institution or a holding company or the subsidiary or affiliate of a lending institution or holding company. Nothing herein shall be construed as permitting the total compensation paid in connection with the purchase or sale of credit insurance to exceed the amount otherwise permitted by law. Nothing herein shall be construed as permitting the offer or sale or issuance of a policy or certificate of credit insurance other than by an authorized insurer or through an agent licensed to write credit insurance.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

Rule 10.06: Severability

If any provision of any section of this regulation or the application thereof to any circumstance or person or entity is held invalid, such invalidity shall not affect any other provision of that section or application of the regulation which can be given effect without the invalid provision or application, and to this end the provision of this regulation are declared to be severable.

Source: Miss. Code Ann. § 83-53-29 (Rev. 2011)

Rule 10.07: Effective Date

This Regulation shall become effective July 1, 1989.

Source: Miss. Code Ann. § 25-43-3.113 (Rev. 2010)