(2) The date proposed for the payment of the dividend or the distribution;

(3) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(4) The copy of the calculations determining that the proposed dividend is extraordinary pursuant to the definition in Insurance Article, §7-706(b), Annotated Code of Maryland, which shall include the following information:

(a) The amounts, dates, and form of payment of all dividends or distributions of cash or other property stated at fair market value paid within the preceding 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought;

(b) Surplus as regards policyholders (total capital and surplus) as of the 31st day of December of the preceding year;

(c) One of the following:

(i) If the insurer is a life insurer, the net gain from operations of the insurer not including realized capital gains or pro rata distributions of any class of the insurer's own securities for the 12 month period ending December 31 of the preceding year; or

(ii) If the insurer is not a life insurer, the net investment income not including realized capital gains or pro rata distributions of any class of the insurer's own securities for the 12-month period ending December 31 of the preceding year; and

(d) If the insurer is not a life insurer, the net investment income from the 3 calendar years prior to the preceding calendar year, not including realized capital gains, minus dividends paid to stockholders in the preceding 3 calendar years;

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 09 LIFE INSURANCE AND ANNUITIES

31.09.04 Contracts on a Variable Basis

Authority: Insurance Article, §§2-109 and 16-601—16-603, Annotated Code of Maryland

Notice of Proposed Action

[16-027-P]

The Insurance Commissioner proposes to adopt amendments to Regulations **.02** and **.08** under **COMAR 31.09.04 Contracts on a Variable Basis**.

Statement of Purpose

The purpose of this action is to update an inaccurate reference to the Insurance Article in Regulation .02, and to clarify that the maximum asset deduction charge for investment expenses and annuity mortality guarantees under variable contract accounts applies only to contract accounts for individual variable contracts, and not to group variable contracts in Regulation .04. The distribution, administration and servicing of a group annuity contract can be different and can be more costly in the small group market as compared to the large group market. The cost to administer a small group plan contract, at lower plan asset values, costs more than the 1.5 percent in the current regulation and more than what it costs to administer large group plan contracts, thereby limiting competition among small group policies in the state and limiting product options for small group employers in the state. Additionally, the group annuity purchase is typically a commercial (as opposed to an individual) transaction between businesses. As with other forms of insurance contracts, the regulatory restrictions for the group (commercial) contracts should be more flexible than the individual contracts. Based on market experience to date, these amendments will increase consumer choices in the group variable contract marketplace.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposed action may have an impact on the issuing agency, the insurance industry and the public. This amendment clarifies that the current requirement in COMAR 31.09.04.08L that establishes a maximum asset deduction charge for investment expenses and annuity mortality guarantees applies only to contract accounts for individual variable contracts and not to contract accounts for group variable contracts.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Contract Review	(R-)	Minimal
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Asset Deduction Charges	(+)	Unknown

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Maryland Insurance Administration anticipates receiving filings of amendments to variable material in certain group variable contracts as well as new group variable contract filings as a result of these regulations. No additional revenue would accompany amendments to existing filings, since variable material filings do not require a filing fee. A filing fee would be assessed on carriers who file new contracts with the state.

F. Based on market activity to date, purchasers of group variable contracts will find new choices in the marketplace for this product as a result of these regulations.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Contracts on a variable basis" means annuity contracts, as defined in Insurance Article, **[**§1-101(f)**]** *§1-101(e)*, Annotated Code of Maryland, which provide for payments varying directly with the investment experience of a segregated asset account, hereinafter referred to as "variable contract account", as distinguished from "fixed annuity contracts". This definition does not include any of the forms of insurance prohibited by Insurance Article, §§16-112 and 27-207, Annotated Code of Maryland.

(2) "Fixed annuity contracts" or "guaranteed annuity contracts" means annuity contracts, as defined in Insurance Article, **[**§1-101(f)**]** *§1-101(e)*, Annotated Code of Maryland, which provide for payment of fixed dollar amounts guaranteed in the contract.

C. (text unchanged)

.08 Administration and Accounting Procedures.

A.—K. (text unchanged)

L. Maximum Asset Deduction Charge.

(1) The maximum asset deduction charge which an insurer may make against a variable contract account *that applies to individual variable contracts* for investment expenses and annuity mortality guarantees may not exceed 1-1/2 percent in the aggregate. This maximum charge shall be reduced by the amount of any asset deduction charge for investment expenses made by an affiliated open-end diversified management investment company in which the assets of the variable contract account are invested in accordance with the provisions of §I of this regulation.

(2)—(3) (text unchanged)

M.—N. (text unchanged)

ALFRED W. REDMER, Jr.
Insurance Commissioner