Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
San Juan, Puerto Rico

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Secretary of State
/s/
Department of State
Government of Puerto Rico

RULE NO. 109 OF THE REGULATIONS OF THE INSURANCE CODE OF PUERTO RICO

"STANDARDS FOR ADVERTISEMENTS OF LIFE INSURANCE AND ANNUITIES"

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OFFICE OF THE COMMISSIONER OF INSURANCE
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"STANDARDS FOR ADVERTISEMENTS OF LIFE INSURANCE AND ANNUITIES"

SECTION 1. – TITLE

This Regulation will be known as "Standards for Advertisements of Life Insurance and Annuities".

SECTION 2. – LEGAL AUTHORITY

This Rule is adopted in accordance with Section 2.030 and Section 13.400 of Act No. 77, enacted on June 19, 1957, as amended, the Insurance Code of Puerto Rico, and Act No. 38-2017, as amended, the Government of Puerto Rico Uniform Administrative Procedure Act.

SECTION 3. – PURPOSE AND SCOPE

The purpose of this rule is to set forth minimum standards and guidelines to assure a full and truthful disclosure of all material and relevant information in the advertising to consumers of life insurance policies and annuity contracts.

SECTION 4. – EXECUTIVE SUMMARY

This Rule establishes the regulatory standards applicable to all commercial advertisement or promotion of life insurance or annuities intended for dissemination in Puerto Rico, in accordance with the criteria adopted by the National Association of Insurance Commissioners (NAIC) in the Advertisements of Life Insurance and Annuities Model Regulation. The provisions of this Rule are necessary to establish the minimum standards and requirements to assure that commercial advertising is truthful and to ensure that it is accurate and not misleading. This Rule holds insurers and authorized representatives or general agents responsible for the content of advertisements and requires them to implement a system of control and insurer approval of advertisements prior to the dissemination of commercial advertisements of life insurance or annuities.

SECTION 5. – APPLICABILITY

A. This rule shall apply to any life insurance or annuity advertisement intended for dissemination in Puerto Rico. In variable contracts and other registered products where disclosure requirements are established pursuant to federal regulation, this rule shall be interpreted so as to eliminate any conflict with the established federal regulation. It must be noted that when this Rule refers to "life insurance," this applies to all life insurance, including credit life insurance.

B. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer, as well as the authorized representative or general agent who created or presented the advertisement. Insurers shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of their policies. The system of control shall include regular and routine notifications, at least once (1) a year, to producers, general agents, authorized representatives, and others authorized by the insurer to publish advertisements of the requirement and procedures for insurer approval prior to the use of any advertisement that is not furnished by the insurer and that the consequence of not obtaining the prior approval from the insurer shall be serious. The insurer shall not be responsible for any advertisement that has not been expressly approved by the insurer prior to publication or of which the insurer could not have had prior knowledge of its publication in order to intervene in its publication; however, the authorized representative, producer, or general agent who publishes it shall be responsible.

SECTION 6. – DEFINITIONS

For the purpose of this rule:

A. (1) **"Advertisement"**: means material designed to create public interest in life insurance or annuities or in an insurer or insurance producer; or to induce the public to purchase, increase, modify, reinstate, surrender, replace, or retain a

policy, or use a policy to ensure a loan, including:

a. Printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, telemarketing scripts, billboards, and similar advertising displays, and the Internet or any other mass communication media.

b. Descriptive texts and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed, or used by the insurer or insurance producer; including, but not limited to, flyers, leaflets, booklets, web pages, images, illustrations, and form letters;

c. Material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, surrender, replace, or retain a policy or secure a loan;

d. Prepared sales talks, presentations, and materials for use by insurance producers.

"Advertisement" for the purpose of this rule shall not include:

a. Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

b. Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, surrender, replace, or retain a policy; and

c. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

B. **"Insurer"**: means any individual, corporation, association, partnership, reciprocal exchange, Lloyd's insurer, fraternal benefit society, and any other

legal entity which is defined as an "insurer" in the insurance code of this state or issues life insurance or annuities in this state and disseminates advertisement of a policy.

C. **"Commissioner"**: means the Commissioner of Insurance of Puerto Rico.

D. **"Preneed funeral contract":** means an agreement by or for an individual before the individual's death relating to the purchase or use of funeral or cemetery merchandise.

E. **"Determinable policy elements"**: means elements that are derived from processes or methods that are guaranteed at issue and not subject to the insurer's discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue of policy. An element is considered determinable if it was calculated from other determinable policy elements only, or from both determinable and guaranteed policy elements.

F. **"Guaranteed policy elements"**: means the premiums, benefits, values, credits, or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue of policy.

G. **"Nonguaranteed elements"**: means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to the insurer's discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

H. **"Policy"**: means any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

I. **"Insurance producer"**: means a person licensed under the Insurance Code of Puerto Rico to solicit, offer, negotiate, or sell insurance.

J. **"Registered product"**: means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Federal Securities Act of 1933. Registered product includes, but is not limited to, contingent deferred annuities

SECTION 7. – DISCLOSURE REQUIREMENTS

A. The information required to be disclosed shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

B. Advertisements shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied or that the policy or contract includes a "free look" period that satisfies or exceeds regulatory requirements, does not remedy misleading statements.

C. In the event an advertisement uses "non-medical," "no medical examination required," or similar terms where issue is not guaranteed, terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

D. An advertisement shall not use as the name or title of a life insurance policy any phrase that does not include the words "life insurance" unless accompanied by language clearly indicating it is a life insurance policy. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by language clearly indicating it

is an annuity. An annuity advertisement shall not refer to an annuity as a certificate of deposit annuity or deceptively compare an annuity to a certificate of deposit.

E. Advertisements shall give prominence to the type of policy advertised.

F. An advertisement of an insurance policy marketed by direct marketing techniques shall not state or imply that, because there is no insurance producer or commission involved, there will be a cost saving to prospective purchasers. No cost savings may be stated or implied without justification to the Commissioner of the use of such an expression.

G. An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, that fact shall be prominently disclosed. An advertisement for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately and clearly display the amount of minimum death benefit under the policy.

H. An advertisement for the types of policies described in subsections F and G of this Section shall not use the words "inexpensive," "low cost," or other phrase or words of similar import when the policies are being marketed as guaranteed issue.

I. Premiums

    a. An advertisement for a policy with non-level premium shall prominently describe the premium changes.

    b. An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

    c. An advertisement shall not contain any statement or representation that premium paid for a life insurance policy can be withdrawn under the

terms of the policy. Reference may be made to premiums paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

d. An advertisement that represents that a pure endowment benefit has a "profit" or "return" on the premium paid, rather than a policy benefit or for which a specified premium is paid is deemed to be deceptive and misleading and is prohibited.

e. Advertisements shall not 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.

f. An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

J. Analogies between a life insurance policy or annuity contract's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments shall be complete and accurate. No advertisement shall emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than a life insurance policy.

K. Advertisements shall not state or imply in any way that interest charged on a loan against a policy—thereby reducing the death benefits by the amount of any said policy loan—is an unfair or inequitable practice, or in any manner an incorrect or improper practice.

L. If nonforfeiture values are shown in an advertisement, the values must be shown either for the entire amount of the basic life insurance policy death benefit or for each $1,000 of initial death benefit.

M. The words “free,” “no cost,” “without cost,” “no additional cost, “at no extra cost,” or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless that actually is the case. If there is no charge to the insured, then the identity of the payor shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

N. No producer or authorized representative may use terms such as “financial planner,” “investment adviser,” “financial consultant,” or “financial counseling” in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership to the association, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. It is hereby prohibited for persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation, or servicing of policies

O. Nonguaranteed Elements

   a. Advertisements shall not utilize or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.

   b. Advertisements shall not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified, if no guaranteed elements are illustrated, they shall be based on the insurer’s current scale, and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

c. Unless otherwise specified, an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence, comparable illustrations or statements containing or based upon the guaranteed policy elements.

d. No advertisement shall use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to be inaccurate or misleading.

e. Advertisements may describe determinable policy elements as guaranteed but determinable at issue of policy. This description should include an explanation of how these elements operate, and their limitations, if any.

f. If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way, such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

g. An advertisement shall not refer to dividends as "tax-free" or use words of similar import, unless the tax treatment is fully explained and the nature of the dividend as a return of premium is indicated clearly.

h. Advertisements may not state or imply that illustrated dividends under either or both a participating policy or pure endowment may be sufficient at any future time [to assure] without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions thereof.

P. An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties:

a. Recommendations or testimonials, appraisals, or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any, and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the recommendation or testimonial, appraisal, analysis, or endorsement. In using testimonials or recommendations, the insurer or insurance producer assumes as its own all the statements contained therein. These statements are subject to all the provisions of this Rule.

b. If the individual making a recommendation, testimonial, appraisal, analysis, or an endorsement has any financial interest in the insurance company or related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than wages under a collective bargaining agreement, that fact shall be prominently disclosed in the advertisement.

c. Advertisements shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any close business relationship between an organization and the insurer is disclosed. If the insurer owns, controls, or manages the entity that makes the endorsement or recommendation or testimonial, or the entity receives any payment or other consideration from the insurer for making an endorsement or recommendation, that fact shall be disclosed in the advertisement.

d. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of five (5) years after the discontinuance of its use or publication.

R. Advertisements shall not contain statistical information relating to any insurer or

policy unless it accurately reflects recent and relevant facts. The source of any statistics used in advertisement shall be identified in the advertisement.

S. Policies Sold to Students

a. The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university, or other education or technical training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

b. All advertisements including, but not limited to, informational flyers used in the solicitation of insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities shall be clearly identified as such.

c. The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school, or other educational or technical training institution, unless that actually is the case.

T. Introductory, Initial, or Special Offers and Enrollment Periods

a. No advertisement of an individual policy or combination of policies shall state or imply that the policy or combination of policies is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. No advertisement shall describe an enrollment period as “special” or “limited” or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies

b. Advertisements shall not state or imply that only a specific number of

policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

c. An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that excesively emphasizes or overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When the insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be marked with an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised.

U. No advertisement of a particular policy shall state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group, and, as such, shall benefit from special rates, dividends, or privileges in the terms of the policy, unless that is the fact.

V. An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. No advertisement shall disparage other insurers, insurance producers, policies, services, or methods of marketing.

W. For individual deferred annuity products or deposit funds, the following shall apply:

a. Any illustrations or statements containing or based upon nonguaranteed interest rates shall likewise set forth with equal prominence illustrations or statements containing or based upon the guaranteed accumulation interest rates. The nonguaranteed interest rate shall not be greater than those currently being credited by the company unless the nonguaranteed rates have not been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date

of declaration.

b. If an advertisement states the premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums.

c. If the contract does not provide a cash surrender benefit prior to commencement of payment of annuity benefits, an illustration or statement concerning the contract shall prominently state that cash surrender benefits are not provided.

d. Any illustration, depiction, or statement containing or based on determinable policy elements shall likewise give prominence to comparable illustrations, depictions, or statements containing or based on guaranteed policy elements.

X. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life insurance policies and annuity contracts.

Y. An advertisement for the solicitation or sale of a preneed funeral contract as defined in Section 6D that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

a. The fact that a life insurance policy or annuity contract is being used to fund a preneed contract as defined in Section 6D; and

b. The nature of the relationship among the soliciting authorized representative or representatives, the provider of the funeral or cemetery services, the administrator, and any other person.

SECTION 8. – IDENTITY OF INSURER

A. The name of the insurer shall be clearly identified in all advertisements about the insurer or its products, and if any specific individual policy is advertised it shall be identified either by the corresponding form number or other

appropriate description. If an application form is a part of the advertisement, the name of the insurer shall be shown on the application form. However, if an advertisement contains a listing of rates or features of the policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states or territories, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the policy issuing insurers, their ratings need not be stated.

B. An advertisement shall not use a trade name, insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer or reinsurer of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have the responsibility for the financial obligation under a policy.

C. Advertisements shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

SECTION 9. – JURISDICTIONAL LICENSING AND STATUS OF INSURER

A. Advertisements that are intended for specific places or to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

B. An advertisement may state that an insurer or insurance producer is licensed in a particular jurisdiction or jurisdictions, provided it does not exaggerate that fact

or suggest or imply that competing insurers or insurance producers may not be so licensed.

An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

SECTION 10. – STATEMENTS ABOUT THE INSURER

Advertisements shall not contain statements, pictures, or illustrations that are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age, or relative position of the insurer in the insurance business. No advertisement shall contain a recommendation by any commercial rating system unless it clearly defines the extent of the recommendation including, but not limited to, the insurer's rating in the rating system cited.

SECTION 11. – ENFORCEMENT PROCEDURES

A. Each insurer shall maintain at its principal office a complete file containing a copy of every printed, published, or prepared advertisement of its individual policies and copies of printed, published, or prepared advertisements of its group, blanket, or franchise policies, disseminated in Puerto Rico, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by the Office of the Commissioner of Insurance. All advertisements shall be maintained in the file for a period of five (5) years after discontinuance of its use or publication.

B. If the Commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the Commissioner may require an insurer or insurance producer to submit all or any part of the advertising

material for review or approval prior to use.

C. Each insurer subject to the provisions of this Rule shall file with the Commissioner with its annual statement a certificate of compliance executed by an authorized officer of the insurer stating that to the best of their knowledge, information, and belief the advertisements that were disseminated by or on behalf of the insurer in Puerto Rico during the statement year, or during the portion of the year when this Rule was in effect, complied or were made to comply in all respects with the provisions of this Rule and the laws of Puerto Rico, as implemented and interpreted by this Rule.

SECTION 12. – PENALTIES

An insurer or its officers, directors, producers, or employees that violate any of the provisions of this Rule, or knowingly participate in or abet such violation, shall be subject to an administrative fine of at least five hundred dollars ($500) and not more than ten thousand dollars ($10,000) for each violation, pursuant to Section 2.250 of the Insurance Code of Puerto Rico.

SECTION 13. – CONFLICT WITH OTHER LAWS AND REGULATIONS

This Rule is not intended to conflict with or repeal any regulations currently in force or subsequently adopted in Puerto Rico governing specific aspects of the sale of life insurance including, but not limited to, laws or regulations dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, replacement of life insurance policies, illustration of life insurance policies, and annuity disclosure. Consequently, no disclosure pursuant to or required under those regulations shall be deemed to be an advertisement within the meaning of this Rule.

SECTION 14. – SEVERABILITY

If any word, sentence, paragraph, subsection, section, or part of this Rule were found to be null and void or invalid by a court of competent jurisdiction, the judgment or order entered by such court will not affect or invalidate the remaining provisions of

this Rule, and the effect thereof shall be limited to the word, sentence, paragraph, subsection, section, or part that was found to be null and void or invalid.

SECTION 15. – EFFECT

The provisions of this Rule shall enter into effect thirty (30) days after filing at the Department of State of Puerto Rico, according to the provisions of Act No. 38-2017, supra.

/s/
ALENDANDER S. ADAMS-VEGA, ESQ.
COMMISSIONER OF INSURANCE OF PUERTO RICO

Date of Approval: *December 16, 2024*

Date of Filing with the Department of State:

Date of Filing with the Library of the Legislature: