

**CHAPTER 90a. SEPARATE ACCOUNTS FOR PRINCIPAL AND INTEREST GUARANTEES****GENERAL PROVISIONS**

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**Authority**

The provisions of this Chapter 90a issued under The Insurance Company Law of 1921 (40 P. S. §§ 341—991); The Insurance Department Act of 1921 (40 P. S. §§ 1—321); and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), unless otherwise noted.

**Source**

The provisions of this Chapter 90a adopted July 21, 1978, effective July 22, 1978, 8 Pa.B. 2059, unless otherwise noted.

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**GENERAL PROVISIONS****§ 90a.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context indicates otherwise:

*Act*—The Insurance Company Law of 1921 (40 P. S. §§ 341—991).

*Department*—The Insurance Department of the Commonwealth.

*Company*—A domestic, foreign or alien life insurance company licensed and authorized to transact the business of life insurance in this Commonwealth.

*Contract*—A group annuity contract:

(i) Which is issued in connection with one or more employe benefit plans qualified under the Internal Revenue Code and provides for guarantees of principal and interest on contributions allocated under the contract to a separate account.

(ii) Under which benefits do not vary with the investment experience of the separate account.

*Separate account*—An account established under the provisions of section 406.2 of the act (40 P. S. § 506.2).

**§ 90a.2. Purpose.**

The purpose of this chapter is to provide for the implementation of section 406.2 of the act (40 P. S. § 506.2) prescribing the conditions under which companies may issue contracts in this Commonwealth.

**§ 90a.3. Foreign and alien life insurance companies.**

If the statutes or regulations of the place of domicile of a foreign or alien insurance company prevent compliance with any specific provision of this chapter, the insurance company shall so advise the Department in writing.

**QUALIFICATION TO ISSUE CONTRACTS****§ 90a.11. Licensing.**

No company may deliver or issue for delivery contracts within this Commonwealth unless the following requirements are met:

(1) The company is licensed and authorized to transact the business of life insurance in this Commonwealth.

(2) The guarantees under the contracts are not more favorable to contract holders than guarantees under comparable group annuity contracts funded by the general account of the company.

(3) The investments allocated to separate accounts under the contracts meet the qualitative and quantitative requirements applicable to investments allocated to the general account of the company.

(4) The Department is satisfied that the condition or method of operation of the company in connection with the issuance of such contracts will not render its operation hazardous to the public or to its policyholders. In this connection, the Department may consider:

(i) The history of financial condition of the company, including the number of years the company has been transacting the business of life insurance in this Commonwealth.

(ii) The character, responsibility and general fitness of the officers and directors of the company.

#### Cross References

This section cited in 31 Pa. Code § 90a.13 (relating to wholly-owned subsidiaries).

### § 90a.12. Years in business and capital surplus.

The Department may prohibit the delivery or issuance of contracts within this Commonwealth by a company which has not been transacting the business of life insurance in this Commonwealth for a period of at least 5 years or which has capital and surplus, if a stock company, or an amount of surplus, if a mutual company, of less than \$1.5 million.

### § 90a.13. Wholly-owned subsidiaries.

A company which is a wholly-owned subsidiary of a life insurance company which has been transacting the business of life insurance in this Commonwealth for a period of at least 5 years may, at the discretion of the Department, be deemed to have satisfied the requirements of § 90a.11(4) (relating to licensing) if either the subsidiary or the life insurance company satisfies the requirements. A wholly-owned subsidiary qualifying to issue contracts by virtue of this section may continue to issue contracts only for so long as it continues to remain a wholly-owned subsidiary of the parent company through which it was deemed to have satisfied the applicable requirements of this section, unless the subsidiary has itself satisfied the requirements.

### § 90a.14. Material to be filed.

Before a company delivers or issues for delivery contracts within this Commonwealth, it shall, in addition to complying with the applicable laws of the Commonwealth and the provisions of this chapter, file with the Department all of the following material:

(1) A certified copy of a resolution adopted by its board of directors establishing one or more separate accounts for the purpose of maintaining principal and interest as guaranteed by the contracts. Amendments to this resolution or a resolution superseding it shall immediately be filed with the Department.

(2) A copy of the latest Report of Examination of the company and Annual Statement if the company has not been previously admitted.

- (3) A general description of the type of contracts to be issued and the employe benefit plans to be funded thereby.
- (4) Other information as may be required by the Department.

#### **SEPARATE ACCOUNTS FOR PRINCIPAL AND INTEREST GUARANTEES**

##### **§ 90a.21. Establishment.**

A company proposing to issue contracts with the approval of the Department shall establish one or more separate accounts under section 406.2 of the act (40 P. S. § 506.2) under which reserves for funds guaranteed as to principal amount or stated rate of interest shall be maintained.

##### **§ 90a.22. Maintenance of assets.**

The company shall maintain, in any separate accounts established in order to provide guarantees of principal and interest, assets having a value at least equal to the accrued amounts guaranteed under the contracts funded by the account. A deficit that may arise in the separate account shall be adjusted by transfers to the separate account from unallocated surplus or contingency reserves not required by law so that the value of the assets allocated to the separate account is at least equal to the accrued amounts guaranteed under the contracts.

##### **Cross References**

This section cited in 31 Pa. Code § 90a.26 (relating to reserve liability for contracts).

##### **§ 90a.23. Asset valuation.**

The assets allocated to a separate account established in order to provide guarantees of principal and interest shall be valued in accordance with rules applicable to assets allocated to the general account of the company as prescribed in section 406.2(a)(4) of the act (40 P. S. § 506.2(a)(4)).

##### **§ 90a.24. Income, gains or losses.**

Income, gains or losses realized or unrealized on a separate account established to provide guarantees of principal and interest shall be credited to or charged against the assets of the account without regard to the other income, gains or losses of the company.

##### **§ 90a.25. Examination.**

The investments and operation of a separate account established in order to provide guarantees of principal and interest shall be examined periodically by the Department in accordance with the applicable laws of the Commonwealth.

**§ 90a.26. Reserve liability for contracts.**

The reserve liability for contracts shall be established under the requirements of section 301 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. § 71). The reserve liability shall be maintained in the separate account funding the contracts and shall be in conformance with § 90a.22 (relating to maintenance of assets).

**§ 90a.27. Annual statements.**

Each life insurance company shall include, in its annual statement for the business of its separate accounts, details as to all of the income, disbursements, assets and liability items associated with a separate account established in order to provide guarantees of principal and interest. The Department may, in addition, require of a company other statements concerning the business of the separate accounts as the Department may deem necessary.

**FILING OF CONTRACTS, APPLICATION AND CONTRACT  
REQUIREMENTS****§ 90a.30. Filing requirements.**

The filing requirements applicable to contracts shall be those filing requirements otherwise applicable under existing statutes and regulations of the Commonwealth with respect to group annuity contract form filings.

**§ 90a.31. Variable accumulations or variable benefits.**

If a contract also provides for variable accumulations or variable benefits, the reserves for the benefits shall be maintained in a separate account other than the separate account established in order to provide guarantees of principal and interest, and the contracts, to the extent that they provide for the variable accumulations or variable benefits, shall comply with Chapter 85 (relating to variable annuity and variable accumulation annuity contracts).

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