

Review Requirements Checklist  
INDIVIDUAL MODIFIED GUARANTEED ANNUITY (MGA)

REVIEW REQUIREMENTS	REFERENCES	COMMENTS
<b>General Filing Requirements</b>		
Transmittal Letter	14 VAC 5-100-40	Must be submitted in duplicate for each filing, describing each form, its intended use and kind of insurance provided.
	14 VAC 5-100-40 1	Forms submitted and described in transmittal letter must have a number that consists of digits, letters, or a combination of both. (Our system limits the number of characters to 20, including spaces, comas, hyphens, etc.)
	14 VAC 5-100-40 2	Must clearly indicate if forms are replacements, revisions, or modifications of previously approved forms and describe the exact changes that are intended.
	14 VAC 5-100-40 3	Certification of Compliance signed by General Counsel or officer of company or attorney or actuary representing company is required.
	14 VAC 5-100-40 5	Description of market for which the form is intended.
	14 VAC 5-100-40 6	At least one copy of each form must be included in the filing. A duplicate copy of forms must be submitted if the company wants a "stamped" copy of forms for its records. A stamped self-addressed return envelope is required. The letter of transmittal must be addressed to, State Corporation Commission, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23218.
	Administrative Letter 1983-7	Must include the name and Individual NAIC number of the company for which the filing is made.
<b>Forms</b>		
Form number	14 VAC 5-100-50 1	Form number must appear in lower left-hand corner of first page of each form.
Company Name & Address	14 VAC 5-100-50 2	Full and proper corporate name (including "Inc.") must prominently appear on cover sheet of all policies and other forms. Home office address of insurer must prominently appear on each policy.
Final form	14 VAC 5-100-50 3	Form must be submitted in the final form in which it will be issued and completed in "John Doe" fashion to indicate its intended use.
Application	14 VAC 5-100-50 4	Any policy, which is to be issued with an attached application, must be filed with a copy of the application completed in "John Doe" fashion to indicate its intended use. (If application was previously approved, advise date of approval.)
Type Size	14 VAC 5-100-50 5	Accident and Sickness forms must be printed with type size of at least ten-point type. All other forms must be printed with type size of at least eight-point.
Arbitration	§ 38.2-312	Contract may not deprive courts of Virginia jurisdiction in actions against insurer. Arbitration may not be binding.
Fraud Notice	§ 38.2-316 D 1	Title 38.2 of the Insurance Code does not define "Insurance Fraud". Any notice regarding insurance fraud is in non-compliance with this section of the Code. Variations in a notice warning of consequences of making fraudulent statements are acceptable. The notice may disclose that it does not apply in Virginia or may disclose states where applicable.
<b>Disclosures</b>		
Important Information Notice	§ 38.2-305 B	Virginia requires the following notice to accompany each new or renewal insurance policy, contract, certificate or evidence of coverage.

Review Requirements Checklist  
INDIVIDUAL MODIFIED GUARANTEED ANNUITY (MGA)

REVIEW REQUIREMENTS	REFERENCES	COMMENTS
Beneficiary Notice	§ 38.2-305 C	Virginia requires the following notice to be attached or incorporated into the policy whenever the policy contains a beneficiary designation in which the designated beneficiary is the spouse of the policy owner.
Tax Disclaimer	§ 38.2-316 D 2	<p>The following notice should be included in any annuity contract that contains language regarding the Federal Tax Code (IRC Code):</p> <p><i>This plan is intended to qualify under the Internal Revenue Code for tax favored status. Language contained in this policy referring to federal tax statutes or rules is informational and instructional and this language is not subject to approval or disapproval by the state in which the policy is issued for delivery.</i></p> <p><i>Your qualifying status rather than the insurance contract, is the controlling factor as to whether your funds will receive tax favored treatment. Please ask your tax advisor if you have any questions as to whether or not you qualify.</i></p> <p>The notice must be made a part of the contract or printed within the body of the contract.</p>
Statements Required	§ 38.2-3113.1 F	MGA contracts must contain, on the first page of each contract, a prominent statement indicating that the nonforfeiture values may increase or decrease, based on the market-value adjustment formula in the contract.
<b>General Policy Provisions</b>		
Definition	§ 38.2-107.1	The contract must meet the definition of a modified guaranteed annuity.
Misstatement of Age	§ 38.2-508	If the age of the insured is found to be misstated, the amount payable under the policy will equal the amount of premium purchased at the insured's correct age. Any overpayments or underpayments made by the insurer must be credited or refunded appropriately.
Investments of Amounts	§ 38.2-1443.1	Amounts allocated to separate accounts may be invested and reinvested by a domestic insurer in any type of Category 1 investment.
Incontestability	§ 38.2-3107	No annuity contract shall be contestable after it has been in force during the lifetime of the insured for two years from its date, except for nonpayment of premiums.
Separate Accounts	§ 38.2-3113.1	An insurer who issues modified guaranteed contracts may establish one or more separate accounts, with some stipulations.

Review Requirements Checklist  
INDIVIDUAL MODIFIED GUARANTEED ANNUITY (MGA)

REVIEW REQUIREMENTS	REFERENCES	COMMENTS
Interest on Proceeds	§ 38.2-3115	If an action to recover proceeds under any annuity contract results in a judgement against the insurer, the legal rate of interest will be paid from the date of presentation of proof of death, or the date of maturity of an endowment policy, to the date that the judgement was entered. If no action is brought against the insurer, interest upon the principal sum will be computed daily at an annual rate of 2 1/2% or at the annual rate currently paid by the insurer on proceeds left under the interest settlement option, whichever is greater.
<b>Miscellaneous Requirements</b>		
Affidavit	Administrative Letter 1992-26	The Company must certify that it has reviewed the requirements of Sections 38.2-1443.1 and 38.2-3113.1. The Company, also, must certify that the modified guaranteed contract complies with the specific requirements of 38.2-3113.1 F.
<b>Loans</b>		
Educational	§ 38.2-3113.3	Educational loan provisions may be included as additional benefits, as part of the contract, or as a rider or as a separate agreement, provided that all of the eligibility qualifications, amount of funds and terms of the loan are specified. Any advertising material used with this type of benefit must be filed and approved by the SCC under § 38.2-316.
Loan Value/Length of Deferment	§ 38.2-3218	The loan value shall be the cash surrender value at the end of the current policy year. The insurer shall have the right to defer a loan for up to six months after an application for the loan is made, except when the loan is made to pay premiums to the insurer.
Loan Value	§ 38.2-3308	Each annuity contract may contain a provision that after the contract has been in force three policy years at any time, the owner may advance a sum equal to or, at the option of the owner, less than the amount required by § 38.2-3218.
Fixed Interest Rate	§ 38.2-3308 C 1 a	Each annuity contract may contain a policy loan interest rate permitting a maximum fixed rate of not more than 8% per year.
Adjustable Maximum Interest Rate	§ 38.2-3308 C 1 b	Each annuity contract may contain a policy loan interest rate permitting an adjustable maximum interest rate established from time to time by the insurer as permitted by law. The interest rate may not exceed the greater of the Published Monthly Average for the calendar month ending two months before the date on which the rate is determined or the rate used to compute the cash surrender values under the policy plus 1% per year.
Frequency of Interest Rate Determination	§ 38.2-3308 C 4	If the maximum interest rate is determined pursuant to the Published Monthly Average, the policy may contain a provision setting forth the frequency at which the rate is to be determined for that policy.
Indebtedness Not Previously Deducted	§ 38.2-3308 D	The insurer may deduct from the loan value any indebtedness not already deducted in determining the value of any unpaid balance of the premium and any interest that may be allowable on the loan to the end of the current policy year. If interest on the loan is not paid when due, it will be added to the existing loan and bear interest at the same rate.

Review Requirements Checklist  
INDIVIDUAL MODIFIED GUARANTEED ANNUITY (MGA)

**Access to Administrative Letters, Administrative Orders, Regulations and Laws is available at**  
<http://www.state.va.us/scc/division/boi/webpages/administrativeltrs.htm>

The Life and Health Division, Forms and Rates Section handles individual modified guaranteed annuity insurance. Please contact this section at (804) 371-9110 if you have questions or need additional information about this line of insurance.

Review Requirements Checklist  
INDIVIDUAL MODIFIED GUARANTEED ANNUITY (MGA)

I hereby certify that I have reviewed the attached individual modified guaranteed annuity filing and determined that it is in compliance with the individual modified guaranteed annuity checklist.

Signed: \_\_\_\_\_

Name (please print): \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_ Phone No: ( ) \_\_\_\_\_ FAX No: ( ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_