



1 unsuitable for the other person *based upon a reasonable inquiry* concerning the  
2 other person's insurance objectives, financial situation and needs, age and other  
3 relevant information known by the person. The Director maintains that from  
4 1/28/05 to 2/27/08, Bankers Life issued at least 30 annuities to persons residing in  
5 Oregon without either making a reasonable inquiry into the relevant circumstances  
6 of each person or having reasonable grounds to believe that the annuities were not  
7 unsuitable for each person. The Director further maintains that Bankers Life failed  
8 to adequately inquire or have grounds to issue the annuities because Bankers Life  
9 issued the annuities based on information which (1) in some instances did not  
10 disclose the person's available financial assets, (2) in most instances represented  
11 that the person was depositing most, all, or even more than all, of the person's  
12 available financial assets into the annuity, and (3) in all instances did not disclose  
13 the person's expenses and debt. Thus, although Bankers Life had reason to believe  
14 that a person could buy an annuity, the Director maintains that Bankers Life did  
15 not have any reason to believe that the person could afford the annuity and still  
16 meet their other anticipated and unanticipated expenses.

### 17 **Action**

#### 18 Civil Penalty

19 Pursuant to ORS 731.988, Bankers Life is assessed a civil penalty of \$150,000.  
20 The payment shall be made in the form of a check payable to the "Department of  
21 Consumer and Business Services" for the full amount due. The payment shall be  
22 mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405 and  
23 *received* by the Insurance Division within fifteen (15) days of the date of the final  
24 order.

25 The Director shall not take additional enforcement action against Bankers Life  
26 for a violation of OAR 836-080-0090 that occurred before the date of the final order.

#### 27 Remediation

28 1. Within sixty (60) days of the date of the final order, Bankers Life shall  
29 provide on a compact disc in an Excel™ format, for all annuities issued in Oregon

- 1 from 1/1/05 to the date of the final order, the following information if within the  
2 company's possession or control to the Director:
- 3 a. Annuity number.
  - 4 b. Application date.
  - 5 c. Annuity effective date.
  - 6 d. Applicant's name.
  - 7 e. Age of the applicant(s) at time of application.
  - 8 f. Type of annuity – if a deferred annuity, then identify the length of time  
9 before the annuity is annuitized.
  - 10 g. Face amount of the annuity.
  - 11 h. Did the annuity replace another annuity or policy? If so then identify the  
12 insurer and policy or annuity that was replaced.
  - 13 i. Annuity still in force – if not, then why not?
  - 14 j. Source of funding.
  - 15 k. Soliciting producer(s).
  - 16 l. Soliciting producer's direct manager.
  - 17 2. Bankers Life and the Director shall agree on a remediation plan which will  
18 include details as to how contact is made with annuity owners, and the standards to  
19 be used in determining the suitability of each annuity subject to the remediation  
20 plan and the method for remediation.
  - 21 3. Bankers Life shall contract with a third party, referred to herein as the  
22 Remediator, to carry out a remediation plan subject to all of the following:
    - 23 a. Within sixty (60) days of the date of the final order, Bankers Life shall  
24 submit a remediation plan with respect to Bankers Life annuities issued to Oregon  
25 residents from 1/1/05 to the date of the final order, except annuity owners who were  
26 previously contacted by the Insurance Division of the Oregon Department of  
27 Consumer and Business Services as part of an investigation into Bankers Life's  
28 annuity sales practices in Oregon.
    - 29 b. The remediation plan shall be subject to the Director's approval.

1 4. On the first day of each month, the Remediator shall submit to Bankers Life  
2 and the Director a monthly report of the progress of the remediation of the  
3 annuities. The report shall be in a format agreeable to both Bankers Life and the  
4 Director. The Remediator shall submit the report until all of the annuities subject  
5 to the remediation plan have been reviewed.

6 5. If an annuity sale is found to be not suitable by the Remediator in accordance  
7 with the remediation plan, Bankers Life shall offer the annuity owner or the  
8 annuity owner's lawful representative, subject to the annuity owner or  
9 representative signing a release prepared by Bankers Life, the following options:

10 a. If the annuity owner elects to keep the annuity, Bankers Life shall issue an  
11 amendment to the policy waiving any remaining surrender period and charges.

12 b. If the annuity owner elects to cancel the annuity, Bankers Life shall waive all  
13 surrender charges and pay all interest owed under the annuity; and pay all  
14 verifiable charges incurred by the annuity owner as a result of purchasing the  
15 cancelled annuity, as specified in the remediation plan, such as taxes, surrender  
16 charges, and fees and commissions for security sales. Bankers Life shall not pay  
17 any costs incurred by the annuity owner as a result of canceling the annuity.

18 6. Bankers Life shall do an analysis of the producer(s), supervisor(s),  
19 manager(s) and branch manager(s) involved in the sale of the annuity(ies) that are  
20 found to be not suitable as a result of the remediation plan, and determine which of  
21 the producers, supervisors, managers and branch managers that need additional  
22 training and/or disciplinary action. On the first day of each month, Bankers Life  
23 shall submit to the Director a report of the results of the analysis until all  
24 producers, supervisors, managers and branch managers have been reviewed and  
25 appropriate training has been provided and disciplinary action has been taken.

26 Corrective Action

27 7. The following items must be implemented within six (6) months of the date of  
28 the final order:

29 a. Bankers Life shall create a product suitability form that is to be used in any  
30 solicitation of an annuity product in Oregon. The applicant, producer and

1 producer's Branch Sales Manager shall sign the product suitability form before the  
2 application is submitted to Bankers Life. In the event the Branch Sales Manager is  
3 unavailable the Unit Sales Manager shall sign the product suitability form. If the  
4 applicant refuses to sign the product suitability form or provide the information  
5 requested on the product suitability form, Bankers Life shall provide a notice to the  
6 applicant that explains that the product may be unsuitable for them. The product  
7 suitability form shall contain the following elements: applicant's insurance  
8 objectives, financial situation and needs, age and any other relevant information  
9 determined by Bankers Life that is relevant in their suitability analysis. The  
10 product suitability form and notice form shall be subject to the approval of the  
11 Director.

12 b. On a quarterly basis, Bankers Life shall provide to the Director a list of all  
13 applications for annuity products that were denied at the branch or home office on  
14 the grounds that the sale was not suitable. The list shall contain the following:

- 15 (1) Date of application.
- 16 (2) Applicant's name.
- 17 (3) Producer's name.
- 18 (4) Producer's manager's name.
- 19 (5) Type of annuity applied for.
- 20 (6) Face amount of the annuity.
- 21 (7) When available, the reason for the denial.

22 c. Bankers Life shall develop and implement a disciplinary program for  
23 producers appointed by Bankers Life that Bankers Life has reasonable grounds to  
24 believe violated Oregon's suitability rule in OAR 836-080-0090. This will include  
25 reporting of any such investigation or review of a producer's activity to the Director  
26 within thirty (30) days of beginning of investigation.

27 8. Within thirty (30) days of the date of the final order, Bankers Life shall  
28 submit to the Director a copy of its register for Oregon consumer complaints for  
29 annuity related complaints received between 1/1/05 and the date of the final order.

1 9. Bankers Life shall not issue any annuity in Oregon unless it has reasonable  
2 grounds for believing that the sale of the annuity complies with OAR 836-080-0090.

3 a. Before determining whether an annuity is not unsuitable for a particular  
4 applicant, Bankers Life shall require producers to obtain from the applicant all of  
5 the information requested in the product suitability form. If an application is  
6 approved at a branch office, then the application and product suitability form shall  
7 be sent to Bankers Life's home office and shall be scanned and maintained at  
8 Bankers Life's home office. If an application is rejected at the branch office, then  
9 the application and product suitability form shall be retained at the branch office.

10 b. In the event a producer submits an application for an annuity that lacks  
11 appropriate supporting documentation or authorization, Bankers Life shall advise  
12 the producer to supply the missing information. If after sixty (60) days the missing  
13 information has not been provided, Bankers Life shall reject the application.

14 10. Bankers Life shall put all annuity applications received from an applicant  
15 through Bankers Life's standards and procedures to monitor and review annuity  
16 sales. Applications identified as being outside of specified thresholds in  
17 paragraph 13 and that the Branch Sales Manager nonetheless recommends for  
18 consideration by Bankers Life shall be assessed for suitability through a  
19 heightened, elevated review process (Elevated Review) in which the application is  
20 individually reviewed by designated Elevated Review staff. If an annuity  
21 application is submitted to Elevated Review, Bankers Life shall review the  
22 applicant's information as contained in the product suitability form to determine  
23 whether the sale complies with OAR 836-080-0090. The information reviewed by  
24 Bankers Life in the Elevated Review process shall be kept by Bankers Life and  
25 subject to review by the Director. If during the Elevated Review process a producer  
26 fails to provide Bankers Life with the financial information requested, the  
27 application shall be rejected.

28 11. Within six (6) months of the date of the final order, Bankers Life shall  
29 implement an Elevated Review process to provide an additional layer of review of  
30 annuity applications that fail to pass one or more of the threshold tests of the

1 suitability review process. Bankers Life shall not issue an annuity that is subject to  
2 Elevated Review unless it determines and documents with specific and objective  
3 evidence that the sale complies with OAR 836-080-0090. Bankers Life shall also  
4 document its rationale for accepting, rejecting or modifying all applications  
5 submitted to Elevated Review. The documentation is to be kept by Bankers Life  
6 and subject to review by the Director.

7 12. Bankers Life shall enhance its existing suitability review process by  
8 including the suitability threshold tests set forth in paragraph 13. If an application  
9 triggers one or more of the threshold tests of the suitability review process and the  
10 Branch Sales Manager nonetheless recommends consideration for the application  
11 by Bankers Life, then the application shall be submitted to Elevated Review

12 13. Subject to paragraph 12, Bankers Life shall submit to its Elevated Review  
13 process all applications from all applicants if any of the following conditions exist  
14 based on information received by Bankers Life:

15 a. Regardless of age, an applicant's annual income is \$20,000 or less, or is less  
16 than 120% of annual expenses;

17 b. Regardless of age, and with the exception of rollovers, if after purchasing the  
18 annuity the premium exceeds 50% of the applicant's Household Liquid Assets;

19 c. Regardless of age, the value of all of the annuities owned by the applicant,  
20 including the annuity being purchased, is equal to or greater than 75% of the  
21 applicant's Household Liquid Assets;

22 d. The applicant is age 80 or older and the applicant is purchasing a  
23 replacement annuity and a surrender charge in excess of 3% is incurred as a result  
24 of the replacement; or

25 e. Regardless of age, the applicant currently resides in a nursing home or  
26 assisted living facility.

27

28 "Income" shall include, but is not limited to the following sources of an applicant  
29 and, if a member of the same household then also the sources of the applicant's  
30 spouse/partner: salary and wages; Social Security payments; payments from an

1 individual retirement account or other similar retirement plans, including a  
2 pension; payments from annuities that have been annuitized; interest payments;  
3 dividends; rental income; and profits from the sale of a business or asset. "Income"  
4 shall not include income currently earned on funds an applicant intends to invest in  
5 an annuity.

6  
7 "Household Liquid Assets" shall mean the value of assets owned by an applicant  
8 and, if a member of the same household then also the value of assets owned by the  
9 applicant's spouse/partner. "Household Liquid Assets" shall include, but are not  
10 limited to, any amount in a checking, savings, certificates of deposit, or money  
11 market account; the value of stocks, bonds, mutual funds, and other investments  
12 less applicable fees, penalties, or deferred sales charges. "Household Liquid Assets"  
13 shall not include any real property, amount that an applicant may withdraw from  
14 the annuity that is being applied for by the applicant, and personal property of an  
15 applicant or if a member of the applicant's household then also personal property of  
16 the applicant's spouse/partner, including but not limited to, jewelry, furnishings or  
17 vehicles.

18  
19 14. Bankers Life shall conduct, or retain LIMRA to conduct, for a period of two  
20 (2) years a semi-annual random survey of Bankers Life's policyholders in Oregon  
21 whose annuities were issued within the prior six (6) months to ascertain the extent  
22 to which the policyholder understands the product purchased, the level of  
23 satisfaction with the sale, if the sale involved the replacement of an existing policy,  
24 and the extent to which the policyholder was comfortable with their interaction  
25 with the sales staff of Bankers Life. The survey shall include a percentage of the  
26 annuities issued by Bankers Life for the preceding six (6) month period according to  
27 the following schedule:

28 Period 1: 50%

29 Period 2: 35%

30 Period 3: 20%

1 Period 4: 10%

2 A report of the survey shall be prepared. Within thirty (30) days of completing or  
3 receiving each report, Bankers Life shall send the report to the Director.

4 15. Bankers Life currently requires a third party to sign an application for an  
5 annuity when the applicant for the annuity is eighty-five (85) years of age or older.  
6 Bankers Life shall lower the age requirement to eighty (80) years of age or older,  
7 and ask the third party how long they have known the applicant and what the third  
8 party's relationship is to the applicant.

9 16. Bankers Life shall not have a "free look" period for its annuity products of  
10 less than 30 calendar days.

11 17. Bankers Life shall provide training to producers on replacing annuity  
12 contracts, the use of the product suitability form used by Bankers Life for the  
13 collection of an applicant's information, and OAR 836-080-0090.

14 18. Bankers Life shall fully implement paragraph 9 within six (6) months of the  
15 date of this final order. During the period between the date of the final order and  
16 the date Bankers Life fully implements paragraph 9, Bankers Life shall provide  
17 producers the training listed in paragraph 17, and implement the procedures set  
18 forth in paragraphs 9 through 13 for applications that are submitted to Elevated  
19 Review.

20 19. For a period of two (2) years from the date of the final order, Bankers Life  
21 shall provide aggregated statistical information to the Director in regard to the  
22 results of Bankers Life's standards and procedures as promulgated by this  
23 Corrective Action Plan, in a format to be approved by the Director.

24 20. Bankers Life shall submit to the Director prior to use, all future modified  
25 telephone scripts, postcards, or other annuity marketing or advertising materials to  
26 be used by any producer or branch office. Bankers Life shall use reasonable efforts  
27 to ensure that all of Bankers Life's appointed producers and branch and unit  
28 managers in Oregon use only those annuity materials on file with the Director and  
29 approved by Bankers Life.









