

STANDARDS FOR ANNUITY SETTLEMENTS

When approving a settlement involving the purchase of an annuity for a protected person, the petitioner should be prepared to demonstrate that the company issuing the annuity meets the following standards as of the date the annuity is purchased:

- 1. Has a minimum of \$100,000,000 of capital and surplus, exclusive of any mandatory security valuation reserve.**
- 2. Has one of the following ratings from two of the following rating organizations:**
 - a. A.M. Best Company:
A+, A+g, A+p, A+r, or A+s**
 - b. Moody's Investors Service Claims Paying Rating:
Aa3, Aa2, Aa1 or Aaa**
 - c. Standard and Poor's Corporation Insurer Claims Paying Ability Rating:
AA-, AA, AA+ or AAA**
 - d. Duff & Phelps Credit Rating company Insurance Company Claims Paying Ability Rating:
AA-, AA, AA+ or AAA**

The list of rating organizations in paragraph 2 is not exclusive. The Court may accept a rating equivalent to those listed from any other nationally recognized rating organization.

Source: These standards are based upon Uniform Periodic Payment of Judgments Acts § 18 (b) (3), (4) and (c) (1990).

Addendum to Order Added by the Court

IT IS FURTHER ORDERED that notwithstanding any other provision in this Order and pursuant to IRC § 130, the periodic payments under the Commonwealth Life Insurance Company annuity cannot be accelerated, deferred, increased or decreased, nor shall the Conservator or the protected person have the power to sell, mortgage, encumber or otherwise anticipate those payments, or any portion thereof, by assignment or otherwise.

IT IS FURTHER ORDERED that counsel shall provide the annuity carrier with a copy of this order and shall file proof of the carrier's agreement to abide by the terms of this Order.

IT IS FURTHER ORDERED that proof of purchase of the annuity in the form of a copy of the annuity contract and proof of the carrier's agreement to abide by the terms of this Order shall be filed within thirty days.

MUTUAL FUND GUIDELINES

Because of the frequent requests to approve investment of minor's funds in mutual funds, here is a summary of the Probate court's views on approving mutual fund investments:

1. A report from Morningstar, the mutual fund rating service, must be presented to the Commissioner.
2. The mutual fund must not be a risky investment. Funds investing in more than 5% derivatives (complex securities whose worth is "derived" from some other asset or indexes) will not be approved nor will funds which invest primarily in junk bonds. Funds investing in high-grade corporate stocks and bonds, or in government backed securities, are preferred. Funds investing primarily in foreign securities may be considered upon a showing that the fund has a track record for safety and good yields.
3. The fund must be willing to sign the court approved restricted account form or a broker must be willing to sign the form for establishing an account for purchase of the mutual fund shares.
4. No load mutual funds are preferred. A "no-load" fund is one which charges no sales commissioner, front-end or back-end charges or 12b-1 fees.
5. Load funds may on occasion be approved if:
 - a. The fund is highly rated by Morningstar.
 - b. The amount of the load decreases over time or the anticipated return is so good that the return, less the load, will likely result in a performance over that of no-load funds.
 - c. The Conservator has shopped the market and can demonstrate to the court that there is no comparable no-load fund available.
 - d. The investment is long-term, meaning that the money will remain in the fund long enough to recoup front-end loads and/or avoid commission charges. The conservator agrees to pay from his or her own pocket any charges that may result from transferring the money to another investment device before the time needed to avoid commissioner charges or recoup front-end loads.