

STANDARD NONFORFEITURE LAW FOR INDIVIDUAL DEFERRED ANNUITIES

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Section 1. Title

This Act shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

Section 2. Applicability

- A. This Act shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.
- B. Sections 3 through 8 shall not apply to contingent deferred annuities.
- C. Notwithstanding Subsection B, the commissioner shall have the authority to prescribe, by regulation, nonforfeiture benefits for contingent deferred annuities that are, in the opinion of the commissioner, equitable to the policyholder, appropriate given the risks insured, and to the extent possible, consistent with general intent of this law.

Drafting Note: It is expected that any regulation prescribing specific nonforfeiture requirements for the CDAs and promulgated by the commissioner under Subsection C above would apply only to the CDA contracts issued subsequent to the effective date of such regulation.

Section 3. Nonforfeiture Requirements

- A. In the case of contracts issued on or after the operative date of this Act as defined in Section 13, no contract of annuity, except as stated in Section 2, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:
 - (1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in Sections 5, 6, 7, 8 and 10;

- (2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in Sections 5, 6, 8 and 10. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six (6) months after demand therefor with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral;
 - (3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits; and
 - (4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.
- B. Notwithstanding the requirements of this section, a deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from prior considerations paid would be less than \$20 monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis on the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under the contract.

Section 4. Minimum Values

The minimum values as specified in Sections 5, 6, 7, 8 and 10 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

- A. (1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in Subsection B of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of Paragraphs (a) through (d) below:
 - (a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in Subsection B;
 - (b) An annual contract charge of \$50, accumulated at rates of interest as indicated in Subsection B;
 - (c) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in Subsection B; and
 - (d) The amount of any indebtedness to the company on the contract, including interest due and accrued.
 - (2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during that contract year.
- B. The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

- (1) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20th of one percent, specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under Section 4B(4);
 - (2) Reduced by 125 basis points;
 - (3) Where the resulting interest rate is not less than ~~one percent-15 basis points~~ (4.15%); and
 - (4) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.
- C. During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in Subsection B(2) above by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.
- D. The commissioner may adopt rules to implement the provisions of Section 4C and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

Section 5. Computation of Present Value

Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

Section 6. Calculation of Cash Surrender Value

For contracts that provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

Section 7. Calculation of Paid-up Annuity Benefits

For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value, and increased by any additional amounts credited by the company to the contract. For contracts that do not provide any death benefits prior to the commencement of any annuity payments, present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

Section 8. Maturity Date

For the purpose of determining the benefits calculated under Sections 6 and 7, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

Section 9. Disclosure of Limited Death Benefits

A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

Section 10. Inclusion of Lapse of Time Considerations

Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

Section 11. Proration of Values; Additional Benefits

For a contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Sections 5, 6, 7, 8 and 10, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this Act. The inclusion of such benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

Section 12. Rules

The commissioner may adopt rules to implement the provisions of this Act.

Section 13. Effective Date

After the effective date of this Act, a company may elect to apply its provisions to annuity contracts on a contract form-by-contract form basis before the second anniversary of the effective date of this Act. In all other instances, this Act shall become operative with respect to annuity contracts issued by the company after the second anniversary of this Act.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1977 Proc. I 26, 28, 317, 479, 484-487 (adopted).

1977 Proc. II 555-557 (corrected).

2003 Proc. 1st Quarter 15-17, 113-114, 965, 970-973 (amended and reprinted).

2017 3rd Quarter (amended).

TABLE 1
 PROPOSED 2021 GRET FACTORS, BASED ON AVERAGE OF 2018/2019 DATA

Description	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Companies Included	Average Premium Per Policy Issued During Year	Average Face Amt (000) Per Policy Issued During Year
Independent	\$166	\$0.90	42%	\$50	121	2,916	194
Career	214	1.20	54%	64	63	2,517	195
Direct Marketing	195	1.10	49%	59	15	2,933	119
Niche Marketing	137	0.80	34%	41	26	590	11
Other*	126	0.70	32%	38	67	836	29
* Includes companies that did not respond to this or prior year surveys					292		

TABLE 2
 CURRENT 2020 GRET FACTORS, BASED ON AVERAGE OF 2017/2018 DATA

Description	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Companies Included	Average Premium Per Policy Issued During Year	Average Face Amt (000) Per Policy Issued During Year
Independent	\$168	\$0.90	42%	\$50	118	3,263	200
Career	214	1.20	54%	64	63	2,661	217
Direct Marketing	217	1.20	54%	65	20	2,489	213
Niche Marketing	125	0.70	32%	38	21	757	13
Other*	140	0.80	35%	42	104	876	34
* Includes companies that did not respond to this or prior year surveys					326		

APPENDIX A -- DISTRIBUTION CHANNELS

The following is a description of distribution channels used in the development of recommended 2021 GRET values:

1. **Independent** – Business written by a company that markets its insurance policies through an independent insurance agent or insurance broker not primarily affiliated with any one insurance company. These agencies or agents are not employed by the company and operate without an exclusive distribution contract with the company. These include most PPGA arrangements.
2. **Career** – Business written by a company that markets insurance and investment products through a sales force primarily affiliated with one insurance company. These companies recruit, finance, train, and often house financial professionals who are typically referred to as career agents or multi-line exclusive agents.
3. **Direct Marketing** – Business written by a company that markets its own insurance policies direct to the consumer through methods such as direct mail, print media, broadcast media, telemarketing, retail centers and kiosks, internet or other media. No direct field compensation is involved.
4. **Niche Marketers** – Business written by home service, pre-need, or final expense insurance companies as well as niche-market companies selling small face amount life products through a variety of distribution channels.
5. **Other** – Companies surveyed were only provided with the four options described above. Nonetheless since there were many companies for which we did not receive a response (or whose response in past years’ surveys confirmed an “other” categorization (see below), values for the “other” category are given in the tables in this memo. It was also included to indicate how many life insurance companies with no response (to this survey and prior surveys) and to indicate whether their exclusion has introduced a bias into the resulting values.

APPENDIX B – UNIT EXPENSE SEEDS

The expense seeds used in the 2014 and prior GRETs were differentiated between branch office and all other categories, due to the results of a relatively old study that had indicated that branch office acquisition cost expressed on a per Face Amount basis was about double that of other distribution channels. Due to the elimination of the branch office category in the 2015 GRET, non-differentiated unit expense seeds have been used in the current and immediately prior studies.

The unit expense seeds used in the 2021 GRET and the 2020 GRET recommendations were based on the average of the 2006 through 2010 Annual SOA expense studies. These studies differentiated unit expenses by type of individual life insurance policy (term and permanent coverages). As neither the GRET nor the Annual Statement data provided differentiates between these two types of coverage, the unit expense seed was derived by judgment based this information. The following shows the averages derived from the Annual SOA studies and the seeds used in this study. Beginning with the 2019 Annual Statement submission this information will become more readily available.

2006-2010 (AVERAGE) CLICE STUDIES:

	Acquisition/ Policy	Acquisition/ Face Amount (000)	Acquisition/ Premium	Maintenance/ Policy
Term				
Weighted Average	\$149	\$0.62	38%	\$58
Unweighted Average	\$237	\$0.80	57%	\$76
Median	\$196	\$0.59	38%	\$64
Permanent				
Weighted Average	\$167	\$1.43	42%	\$56
Unweighted Average	\$303	\$1.57	49%	\$70
Median	\$158	\$1.30	41%	\$67

CURRENT UNIT EXPENSE SEEDS:

	Acquisition/ Policy	Acquisition/ Face Amount (000)	Acquisition/ Premium	Maintenance/ Policy
All distribution channels	\$200	\$1.10	50%	\$60



TO: Reggie Mazyck, NAIC
FROM: Dale Hall, Managing Director of Research, Society of Actuaries (SOA)
Leon Langlitz, Chair, SOA Committee on Life Insurance Company Expenses
DATE: July 23, 2020
RE: 2021 Generally Recognized Expense Table (GRET) – SOA Analysis

Dear Mr. Mazyck:

As in previous years, the Society of Actuaries expresses its thanks to NAIC staff for their assistance and responsiveness in providing Annual Statement expense and unit data for the 2021 GRET analysis for use with individual life insurance sales illustrations. The analysis is based on expense and expense related information reported on companies' 2018 and 2019 Annual Statements. This project has been completed to assist the Life Actuarial Task Force (LATF) in its consideration of potential revisions to the GRET that could become effective for calendar year 2021. This memo describes the analysis and resultant findings.

NAIC staff provided Annual Statement data for life insurance companies for calendar years 2018 and 2019. This included data from 722 companies in 2018 and 776 companies in 2019. This increase breaks the trend of small decreases over the previous few years. Of the total companies, 292 were in both years and passed the outlier exclusion tests and were included as a base for the GRET factors (326 companies passed similar tests last year).

APPROACH USED

The methodology for calculating the recommended GRET factors based on this data is similar to that followed the last several years. The methodology was last altered in 2015. The changes made at that time can be found in the recommendation letter sent to LATF on July 30, 2015¹.

To calculate updated GRET factors, the average of the factors from the two most recent years (2018 and 2019 for those companies with data available for both years) of Annual Statement data was used. For each company an actual-to-expected ratio was calculated. Companies with ratios that fell outside predetermined parameters were excluded. This process was completed three times to stabilize the average rates. The boundaries of the exclusions have been modified from time to time; however, there were no adjustments made this year. Unit expense seed factors (the seeds for all distribution channel categories are the same), as shown in Appendix B, were used to compute total expected expenses. Thus, these seed factors were used to implicitly allocate expenses between acquisition and maintenance expenses, as well as among the three acquisition expense factors (on a direct of ceded reinsurance basis).

Companies were categorized by their reported distribution channel (four categories were used as described in Appendix A included below). There remain a significant number of companies for which no distribution channel was provided, as no responses to the annual surveys have been received from those companies. The characteristics of these companies vary significantly, including companies not currently writing new business or whose major line of business is not individual life insurance. Any advice or assistance from LATF

¹ <https://www.soa.org/Files/Research/Projects/research-2016-gret-recommendation.pdf>

in future years to increase the response rate to the surveys of companies that submit Annual Statements in order to reduce the number of companies in the “Other” category would be most welcomed. The intention is to continue surveying the companies in future years to enable enhancement of this multiple distribution channel information.

Companies were excluded from the analysis if (1) their actual to expected ratios were considered outliers, often due to low business volume, (2) the average first year and single premium per policy were more than \$40,000, (3) they are known reinsurance companies or (4) their data were not included in both years of the data supplied by the NAIC. To derive the overall GRET factors, the unweighted average of the remaining companies’ actual-to-expected ratios for each respective category was calculated. The resulting factors were rounded, as shown in Table 1.

THE RECOMMENDATION

The above methodology results in the proposed 2021 GRET values shown in Table 1. To facilitate comparisons, the current 2020 GRET factors are shown in Table 2. Further characteristics of the type of companies represented in each category are included in the last two columns in Table 1, including the average premium per policy issued and the average face amount (\$000s) per policy issued.

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In previous recommendations, an effort was made to reduce volatility in the GRET factors from year-to-year by limiting the change in GRET factors between years to about ten percent of the prior value. The changes from the 2020 GRET were reviewed to ensure that a significant change was not made in this year's GRET recommendation. The Direct Marketing and Other distribution channel categories experienced a change greater than ten percent so the factors for this line were capped at the ten percent level (the Acquisition per unit factor changed somewhat more than 10% because of rounding) from the corresponding 2020 GRET values. The volatility occurred due to the change in the composition of the companies in this category where a small number of companies were included.

USAGE OF THE GRET

This year's survey, responded to by companies' Annual Statement correspondent, included a question regarding whether the 2020 GRET table was used in its illustrations by the company. Last year, 26% of the responders indicated their company used the GRET for sales illustration purposes, with similar percentage results by size of company; this contrasted with about 28% in 2018. This year, 29% of responding companies indicated that they used the GRET in 2019 for sales illustration purposes. The range was from 22% for Direct Marketing to 48% for career carriers. Based on the information received over the last several years, the variation in GRET usage appears to be in large part due to the relatively small sample size and different responders to the surveys.

We hope LATF finds this information helpful and sufficient for consideration of a potential update to the GRET. If you require further analysis or have questions, please contact Dale Hall at 847-273-8835.

Kindest personal regards,



Dale Hall, FSA, MAAA, CERA, CFA
Managing Director of Research
Society of Actuaries



Leon Langlitz, FSA, MAAA
Chair, SOA Committee on
Life Insurance Company Expenses

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Actuarial Guideline XLIX

THE APPLICATION OF THE LIFE ILLUSTRATIONS MODEL REGULATION TO POLICIES WITH INDEX-BASED INTEREST

Background

The *Life Insurance Illustrations Model Regulation* (#582) was adopted by the NAIC in 1995. Since that time there has been continued evolution in product design, including the introduction of benefits that are tied to an external index or indices. Although these policies are subject to Model #582, not all of their features are explicitly referenced in the model, resulting in a lack of uniform practice in its implementation. In the absence of uniform guidance, two illustrations that use the same index and crediting method often illustrated different credited rates. The lack of uniformity can be confusing to potential buyers and can cause uncertainty among illustration actuaries when certifying compliance with Model #582.

This guideline provides uniform guidance for policies with index-based interest. In particular, this guideline:

- (1) Provides guidance in determining the maximum crediting rate for the illustrated scale and the earned interest rate for the disciplined current scale.
- (2) Limits the policy loan leverage shown in an illustration.
- (3) Requires additional consumer information (side-by-side illustration and additional disclosures) that will aid in consumer understanding.

Text

1. Effective Date

This Actuarial Guideline shall be effective as follows:

- i. Sections 4 and 5 shall be effective for all new business and in force life insurance illustrations on policies sold on or after September 1, 2015.
- ii. Effective March 1, 2017, Section 4 and Section 5 shall be effective for all in-force life insurance illustrations on policies within the scope of this actuarial guideline, regardless of the date the policy was sold.
- iii. Sections 6 and 7 shall be effective for all new business and in force life insurance illustrations on policies sold on or after March 1, 2016.
- iv. This actuarial guideline shall not apply for any new business or in force life insurance illustrations on policies sold on or after December 14, 2020.
- v. Notwithstanding part iv of this section, an insurer may choose to utilize AG-49A guidance for new illustrations on policies sold prior to the effective date of AG49A provided that, one, the insurer utilizes AG-49A guidance for all new product illustrations subject to AG49, and, two, the insurer does not revert back to the AG-49 guidance.

1. Scope

This Actuarial Guideline shall apply to any life insurance illustration that meets both (i) and (ii), below:

- i. The policy is subject to Model #582.
- ii. Interest credits are linked to an external index or indices.

3. Definitions

A. Alternate Scale: A scale of non-guaranteed elements currently being illustrated such that:

- i. The credited rate for each Index Account does not exceed the lesser of the maximum credited rate for the illustrated scale less 100 basis points and the credited rate for the Fixed Account. If the insurer does not offer a Fixed Account with the illustrated policy, the credited rate for each Index Account shall not exceed the average of the maximum credited rate for the illustrated scale and the guaranteed credited rate for that account. However, the credited rate for each Index Account shall never be less than the guaranteed credited rate for that account.
- ii. If the illustration includes a loan, the illustrated rate credited to the loan balance does not exceed the illustrated loan charge.
- iii. All other non-guaranteed elements are equal to the non-guaranteed elements for the illustrated scale.

B. Benchmark Index Account: An Index Account with the following features:

- i. The interest calculation is based on the percent change in S&P 500® Index value only, over a one-year period using only the beginning and ending index values. (S&P 500® Index ticker: SPX)
- ii. An annual cap is used in the interest calculation.
- iii. The annual floor used in the interest calculation shall be 0%.
- iv. The participation rate used in the interest calculation shall be 100%.
- v. Interest is credited once per year.
- vi. Account charges do not exceed the account charges for any corresponding Index Accounts within the policy in any policy year. If Index Accounts with different levels of account charges are offered with the illustrated policy, more than one Benchmark Index Account may be used in determining the maximum illustrated crediting rates for the policy's Index Accounts, subject to the requirements of 5.D.. However, for each Index Account within the policy, only one Benchmark Index Account shall apply. Any rate calculated in 4 (B) shall not apply for an Index Account if the account charges for the applicable Benchmark Index Account exceed the account charges for that Index Account in any policy year. Account charges include all charges applicable to an Index Account, whether deducted from policy values or from premiums or other amounts transferred into such Index Account.
- vii. Additional amounts credited are not less than the additional amounts credited for any corresponding Index Accounts within the policy in any policy year. Any rate calculated in 4 (B) shall not apply for an Index Account if the additional amounts credited for the applicable Benchmark Index Account are less than the additional amounts credited for that Index Account in any policy year. Additional amounts include all credits that increase policy values, including but not limited to experience refunds or bonuses.
- viii. There are no limitations on the portion of account value allocated to the account.

C. Fixed Account: An account where the credited rate is not tied to an external index or indices.

D. Index Account: An account where the credited rate is tied to an external index or indices.

4. Illustrated Scale

The credited rate for the illustrated scale for each Index Account shall be limited as follows:

- A. Calculate the geometric average annual credited rate for each applicable Benchmark Index Account for the 25-year period starting on 12/31 of the calendar year that is 66 years prior to the current calendar year (e.g., 12/31/1949 for 2015 illustrations) and for each 25-year period starting on each subsequent trading day thereafter, ending with the 25-year period that ends on 12/31 of the prior calendar year.
 - i. If the insurer offers an applicable Benchmark Index Account with the illustrated policy, the illustration actuary shall use the current annual cap for the applicable Benchmark Index Account in 4 (A).
 - ii. If the insurer does not offer an applicable Benchmark Index Account with the illustrated policy, the illustration actuary shall use actuarial judgment to determine a hypothetical, supportable current annual cap for a hypothetical, supportable Index Account that meets the definition of a Benchmark Index Account, and shall use that cap in 4 (A).
- B. For each applicable Benchmark Index Account, the arithmetic mean of the geometric average annual credited rates calculated in 4 (A) shall be the maximum credited rate(s) for the illustrated scale.
- C. For other Index Accounts using other equity, bond, and/or commodity indexes, and/or using other crediting methods, the illustration actuary shall use actuarial judgment to determine the maximum credited rate for the illustrated scale. The determination shall reflect the fundamental characteristics of the Index Account and the parameters shall have the appropriate relationship to the expected risk and return of the applicable Benchmark Index Account. In no event shall the credited rate for the illustrated scale exceed the applicable rate calculated in 4 (B).
- D. At the beginning of each calendar year, the insurer shall be allowed up to three (3) months to update the credited rate for each Index Account in accordance with 4 (B) and 4 (C).

5. Disciplined Current Scale

The earned interest rate for the disciplined current scale shall be limited as follows:

- A. If an insurer engages in a hedging program for index-based interest, the assumed earned interest rate underlying the disciplined current scale shall not exceed 145% of the annual net investment earnings rate (gross portfolio earnings less provisions for investment expenses and default costs) of the general account assets (excluding hedges for index-based credits) allocated to support the policy.
- B. If an insurer does not engage in a hedging program for index-based interest, the assumed earned interest rate underlying the disciplined current scale shall not exceed the annual net investment earnings rate of the general account assets allocated to support the policy.
- C. These experience limitations shall be included when testing for self-support and lapse-support under Model #582, accounting for all benefits including illustrated bonuses.
- D. If more than one Benchmark Index Account is used for an illustrated policy, each set of Index Accounts that correspond to each Benchmark Index Account must independently pass the self-support and lapse-support tests under Model #582, subject to the limitations in 5 (A), (B), and (C). All experience assumptions that do not directly relate to the Index Accounts as to expenses, mortality, investment earnings rate of the general account assets, lapses, and election of any Fixed Account shall equal the assumptions used in the testing for the entire policy.

6. Policy Loans

If the illustration includes a loan, the illustrated rate credited to the loan balance shall not exceed the illustrated loan charge by more than 100 basis points.

7. Additional Standards

The basic illustration shall also include the following:

- A. A ledger using the Alternate Scale shall be shown alongside the ledger using the illustrated scale with equal prominence.
- B. A table showing the minimum and maximum of the geometric average annual credited rates calculated in 4 (A).
- C. For each Index Account illustrated, a table showing actual historical index changes and corresponding hypothetical interest rates using current index parameters for the most recent 20-year period.

Life Actuarial (A) Task Force
Technical Amendment to AG 49-A

Purpose: This amendment is intended to revise the regulation, adopted by the Executive (EX) Committee and Plenary on Aug. 14, to coordinate its effective date with the anticipated adoption of proposed revisions to *Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest* (AG 49), to be considered for adoption by the Executive (EX) Committee and Plenary at the Fall National Meeting.

Background: *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest Sold On or After November 25, 2020* (AG 49-A) applies to illustrations on applicable policies sold on or after Nov. 25. The Life Actuarial (A) Task Force recently exposed a revision to the existing AG 49 requirements to limit its application to in-force illustrations on policies sold before Nov. 25.

The Nov. 25 effective date of AG 49-A was chosen in anticipation of the Executive (EX) Committee and Plenary adoption of the revisions to AG 49 at the Fall National Meeting, initially scheduled for mid-November. Due to the impact of the corona virus, the meeting was moved to early December, delaying the adoption of the AG 49 revisions and necessitating this amendment for changes to the effective date for AG 49-A.

Amendments:

- The date reference in the title of the regulation is changed from “on or after November 25” to “on or after December 14,” reflecting the new anticipated adoption date of the proposed revisions to AG 49 due to the shift in the Fall National Meeting dates.
- Language in the effective date paragraph is changed to make the guideline effective on or after Dec. 14.

Draft: 11/2/20

Adopted by the Executive (EX) Committee and Plenary, Dec. 9, 2020

Adopted by the Life Insurance and Annuities (A) Committee, Nov. 10, 2020

Adopted by the Life Actuarial (A) Task Force, Oct. 8, 2020

2021 Proposed Charges

LIFE ACTUARIAL (A) TASK FORCE

The mission of the Life Actuarial (A) Task Force is to identify, investigate and develop solutions to actuarial problems in the life insurance industry.

Ongoing Support of NAIC Programs, Products or Services

1. The **Life Actuarial (A) Task Force** will:
 - A. Work to keep reserve, reporting and other actuarial-related requirements current. This includes principle-based reserving (PBR) and other requirements in the *Valuation Manual*, actuarial guidelines, and recommendations for appropriate actuarial reporting in blanks. Respond to charges from the Life Insurance and Annuities (A) Committee and referrals from other groups or committees, as appropriate.
 - B. Report progress on all work to the Life Insurance and Annuities (A) Committee and provide updates to the Financial Condition (E) Committee on matters related to life insurance company solvency. This work includes the following:
 1. Work with the American Academy of Actuaries (Academy) and the Society of Actuaries (SOA) to develop new mortality tables for valuation and minimum nonforfeiture requirements, as appropriate, for life insurance and annuities.
 2. Provide recommendations for guidance and requirements for accelerated underwriting, as needed.
 3. Evaluate and provide recommendations regarding the VM-21, Requirements for Principle-Based Reserves for Variable Annuities/*Actuarial Guideline XLIII—CARVM Variable Annuities* (AG 43) Standard Projection Amount, which may include continuing as a required floor or providing a disclosure. This evaluation is to be completed prior to year-end 2023.
 4. Work with the SOA on the annual development of the Generally Recognized Expense Table (GRET) factors.
 5. Provide recommendations and changes, as appropriate, to other reserve and nonforfeiture requirements to address issues and provide actuarial assistance and commentary to other NAIC committees relative to their work on actuarial matters.
 6. Work with the selected vendor to develop and implement a new economic scenario generator (ESG) for use in regulatory reserve and capital calculations.
 7. Monitor international developments regarding life and health insurance reserving, capital, and related topics. Compare and benchmark with PBR requirements.
2. The **Variable Annuities Capital and Reserve (E/A) Subgroup** of the Life Risk-Based Capital (E) Working Group and the Life Actuarial (A) Task Force will:
 - A. Monitor the impact of the changes to the variable annuities reserve framework and risk-based capital (RBC) calculation and determine if additional revisions need to be made.
 - B. Develop and recommend appropriate changes, including those to improve accuracy and clarity of variable annuity (VA) capital and reserve requirements.
3. The **Experience Reporting (A) Subgroup** will:
 - A. Continue development of the experience reporting requirements within the *Valuation Manual*. Provide input, as appropriate, for the process regarding the experience reporting agent, data collection, subsequent analysis, and use of experience submitted.
4. The **Indexed Universal Life (IUL) Illustration (A) Subgroup** will:
 - A. Monitor the results and practices of IUL illustrations following implementation of *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold On or After Dec. 14, 2020* (AG 49-A). Provide recommendations for consideration of changes to *Life Insurance Illustrations Model Regulation* (#582) to the Life Actuarial (A) Task Force, as needed.

5. The **Longevity Risk (E/A) Subgroup** of the Life Actuarial (A) Task Force and the Life Risk-Based Capital (E) Working Group will:
 - A. Provide recommendations for recognizing longevity risk in statutory reserves and/or RBC, as appropriate. Complete by the 2021 Summer National Meeting.
6. The **Valuation Manual (VM)-22 (A) Subgroup** will:
 - A. Recommend requirements, as appropriate, for non-variable (fixed) annuities in the accumulation and payout phases for consideration by the Life Actuarial (A) Task Force. Continue working with the Academy on a PBR methodology for non-variable annuities.
7. The **Guaranteed Issue (GI) Life Valuation (A) Subgroup** will:
 - A. Provide recommendations regarding valuation requirements for GI life business, including any appropriate mortality table(s) for valuation, as well as nonforfeiture. Initial recommendations are to be provided to the Life Actuarial (A) Task Force by the 2021 Summer National Meeting.

NAIC Support Staff: Reggie Mazyck/Jennifer Frasier

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Draft: 11/2/20

Adopted by the Executive (EX) Committee and Plenary, Dec. 9, 2020

Adopted by the Life Insurance and Annuities (A) Committee, Nov. 10, 2020

2021 Proposed Charges

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

The mission of the Life Insurance and Annuities (A) Committee is to: 1) consider issues relating to life insurance and annuities; and 2) review new life insurance products.

Ongoing Support of NAIC Programs, Products or Services

1. The **Life Insurance and Annuities (A) Committee** will:
 - A. Monitor the activities of the Life Actuarial (A) Task Force.
2. The **Accelerated Underwriting (A) Working Group** will:
 - A. Consider the use of external data and data analytics in accelerated life underwriting, including consideration of the ongoing work of the Life Actuarial (A) Task Force on the issue; and, if appropriate, draft guidance for the states.
3. The **Annuity Disclosure (A) Working Group** will:
 - A. Review and revise, as necessary, Section 6—Standards for Annuity Illustrations in the *Annuity Disclosure Model Regulation* (#245) to take into account the disclosures necessary to inform consumers in light of the product innovations currently in the marketplace.
4. The **Annuity Suitability (A) Working Group** will:
 - A. Review and revise, as necessary, the *Suitability in Annuity Transactions Model Regulation* (#275).
 - B. Consider how to promote greater uniformity across NAIC member jurisdictions.
5. The **Life Insurance Illustration Issues (A) Working Group** will:
 - A. Explore how the narrative summary required by Section 7B of the *Life Insurance Illustrations Model Regulation* (#582) and the policy summary required by Section 5A(2) of the *Life Insurance Disclosure Model Regulation* (#580) can be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers.
6. The **Life Insurance Online Guide (A) Working Group** will:
 - A. Develop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public.
7. The **Retirement Security (A) Working Group** will:
 - A. Explore ways to promote retirement security consistent with the NAIC’s continuing “Retirement Security Initiative.”

NAIC Support Staff: Jennifer R. Cook/Jolie H. Matthews

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Michael Lovendusky
Vice President & Associate General Counsel

4 November 2020

Marlene Caride, Commissioner, New Jersey Department of Banking & Insurance, Chair
NAIC Life Insurance & Annuities (A) Committee
c/o Jennifer Cook, Senior Life & Health Counsel, NAIC
via jcook@naic.org

RE: Life Insurance Illustrations Issues (A) Working Group

Dear Chairwoman Caride & Members of the Committee:

The American Council of Life Insurers (ACLI) commends the efforts of the Life Insurance Illustrations Issues (A) Working Group over the last four and a half years and respectfully recommends that you recognize the accomplishments of, receive a final report from, and retire the Working Group. This letter explains the basis of the ACLI recommendation and concludes with suggestions about how to address any lingering considerations, if necessary.

The Working Group substantially explored how the narrative summary required by Section 7B of the Life Insurance Illustrations Model Regulation and the policy summary required by Section 5A(2) of Life Insurance Disclosures Model Regulation might be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers. Years of time and energy were invested by participating regulators and interested parties in explorations.

The ACLI believes the working group explorations were a success. No regulator found fault with the sample policy summaries provided by ACLI members to the working group in 2016; the reasons for the traditional business practice of providing consumer disclosures at time of policy delivery – and especially the importance of the Free Look Period – were remembered; and the importance of agents and financial advisors in helping consumers select the most appropriate plan of life insurance and explain policy features was appreciated anew. Hence the ACLI believes that the Working Group succeeded in its charge and should not move forward with its current effort to devise “policy overviews” for Term, Whole, and Universal Life insurance policies. Currently, two, alternative Term Life Insurance Sample Policy Overviews are exposed for consideration. Neither alternative policy overview is likely to promote consumer readability and understandability of any type of life insurance policy.

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

With this opinion, the ACLI joins Birny Birnbaum of the Center for Economic Justice (who for years has criticized the benefit of any policy overview produced at the time of policy delivery) in concluding that the exposed Term Life Insurance Sample Policy Overview Post-Underwriting (i.e., at Time of Delivery) will not, on top of existing disclosures, promote consumer readability and understandability of the policy.

However, the ACLI also does not support development of the alternative, exposed Term Life Insurance Policy Overview at Time of Application. This concept will not improve the ability of a consumer to select *the most appropriate plan of life insurance for the buyer's needs* in the absence of an agent, broker or advisor; or improve the buyer's understanding of the *features of the policy that has been purchased*.¹ Rather, such a document is likely to confuse rather than assist consumers, as it will lack personalized information for the consumer due to its timing. For more background, see ACLI Letter to NAIC Life Insurance Illustrations Issues (A) Working Group (11/15/19) [here](#).

Should the Committee believe that further consideration of consumer disclosures is needed, the ACLI recommends that the NAIC undertake its traditional approach to review any concerns raised by members or interested parties, namely, an objective fact-finding and study. The ACLI would welcome the opportunity to review objective evidence that any serious problem may exist and evaluate it against the manifest success of life insurance policy disclosures based upon the existing, successful model regulations. The current NAIC consumer disclosure paradigm – respected by the regulators in all the states – has been in place for decades. During that time, millions of life insurance policies have provided billions of dollars of value to their purchasers and beneficiaries.

In such circumstances, the ACLI will gladly contribute information and empirical knowledge to any further study by the Committee. If a serious problem is found, we will certainly work with you to rectify it. Thank you for your consideration.

Sincerely,



THE AMERICAN COUNCIL OF LIFE INSURERS
Michael Lovendusky, Vice President & Associate General Counsel
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C: NAIC Life Insurance Illustrations Issues (A) Working Group

¹ Italicized comments quote the NAIC *Life Insurance Disclosure Model Regulation* § 2A (“Purpose”).