II – Reserve Requirements Subsection 2: Annuity Products (new item D)

D. Annuity PBR Exemption

1. A company meeting at least one of the conditions in Subsection 2.D.2 below may file a statement of exemption for annuity contracts or certificates, except for contracts or certificates in Subsection 2.D.3 below, issued directly or assumed during the current calendar year, that would otherwise be subject to VM-22. If a company has no business issued directly or assumed during the current calendar year that would otherwise be subject to VM-22, a statement of exemption is not required. For a filed statement of exemption, the statement must be filed with the domiciliary commissioner prior to July 1 of that year certifying that at least one of the two conditions in Subsection 2.D.2 was met, and the statement of exemption must also be included with the NAIC filing for the second quarter of that year.

The domiciliary commissioner may reject such statement prior to Sept. 1 and require the company to follow the requirements of VM-22 for the annuity contracts or certificates covered by the statement.

If a filed statement of exemption is not rejected by the domiciliary commissioner, the filing of subsequent statements of exemption is not required as long as the company continues to qualify for the exemption; rather, ongoing statements of exemption for each new calendar year will be deemed to not be rejected, unless: 1) the company does not meet either condition in Subsection 2.D.2 below; 2) the contracts contain those in Subsection 2.D.3 below; or 3) the domiciliary commissioner contacts the company prior to Sept. 1 and notifies them that the statement of exemption is rejected. If any of these three events occur, then the statement of exemption for the current calendar year is rejected, and a new statement of exemption must be filed and not rejected in order for the company to exempt additional contracts or certificates. In the case of an ongoing statement of exemption, rather than include a statement of exemption with the NAIC filing for the second quarter of that year, the company should enter “SEE EXPLANATION” in response to the Annuity PBR Exemption supplemental interrogatory and provide as an explanation that the company is utilizing an ongoing statement of exemption.

1. Condition for Exemption:

a. The company has less than $3 billion of exempted prior year reserves, and if the company is a member of an NAIC group that includes other life insurance companies, the group has combined exempted prior year reserves of less than $6 billion: or

b. The only new contract or certificates that would otherwise be subject to VM-22 being issued or assumed by the company are due to election of contract benefits or features from existing contracts or certificates valued under VM-A and VM-C and the company was exempted from, or otherwise not subject to, the requirements of VM-22 in the prior year.

Exemption reserves are determined as follows:

1. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Individual Annuities, Column 2 (“Fixed Annuities”), line 15; plus
2. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Individual Annuities, Column 3 (“Indexed Annuities”), line 15; plus
3. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Individual Annuities, Column 6 (“Life Contingent Payout (Immediate and Annuitizations)”), line 15; plus
4. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Group Annuities, Column 2 (“Fixed Annuities”), line 15; plus
5. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Group Annuities, Column 3 (“Indexed Annuities”), line 15; plus
6. The amount reported in the prior calendar year life/health annual statement, Analysis of Increase Reserve in Reserves During the Year-Group Annuities, Column 6 (“Life Contingent Payout (Immediate and Annuitizations)”), line 15.
7. Contracts and Certificates Excluded from the Annuity PBR Exemption:
8. Contracts or certificates with guaranteed living benefits (GMIBs, GMABs, GMMBs, GLWBs).
9. Each exemption, or lack of an exemption, outlined in Subsection 2.D.1 – Subsection 2.D.3 above applies only to contracts or certificates issued or assumed in the current year, and it applies to all future valuation dates for those contracts or certificates. However, if contracts or certificates did not qualify for the Annuity PBR Exemption during the year of issue but would have qualified for the Annuity PBR Exemption if the current Valuation Manual requirements had been in effect during the year of issue, then the domiciliary commissioner may allow an exemption for such contracts or certificates. The minimum reserve requirements for the annuity contracts and certificates subject to the exemption are those pursuant to applicable methods required in VM-A and VM-C using the mortality tables as defined in VM-M.