

## PROJECT HISTORY - 2009

### MODEL REGULATION PERMITTING THE RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES (#815)

#### 1. Description of the Project, Issues Addressed, etc.

The project was to allow the 2001 CSO preferred mortality tables to be used with contracts based on the 2001 CSO and issued prior to January 1, 2007, with commissioner approval.

The proposed model regulation was expanded to include the use of 1980 CSO for determining minimum nonforfeiture benefits in addition to valuing reserves.

#### 2. Name of Group Responsible for Drafting the Model and States Participating

The 2009 members of the Life and Health Actuarial Task Force are: Kansas (chair), South Carolina (Vice Chair), Alaska, Alabama, Arkansas, California, Connecticut, Florida, Hawaii, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Texas and Utah.

#### 3. Project Authorized by What Charge and Date First Given to the Group

The initial charge was given to the Task Force in November 2008, by the Capital and Surplus Relief (EX) Working Group to consider the proposal from the American Council of Life Insurers. The proposal was rejected by the Executive Committee in January 2009. At the 2009 Commissioner Conference the Task Force was again charged with reviewing the proposal.

#### 4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The initial drafts were provided by the American Council of Life Insurers. A subgroup of the Task Force made changes and made a recommendation to the Task Force. The Task Force made several modifications.

#### 5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The subgroup discussed the proposal at public conference calls on this topic on the following dates: March 27, 2009; March 31, 2009; April 7, 2009; April 14, 2009; April 21, 2009; and April 28, 2009. The Task Force held a public conference call on this topic on May 4, 2009. Notice of each of these conference calls was posted on the NAIC's home page on the Internet and e-mailed to approximately 300 interested parties. Drafts of the document were released for comment on December 23, 2008, and May 4, 2009. Several memos and letters were submitted to the Task Force relative to this project. Most urged not including the deferred premium asset in the model regulation. Due to the urgency of the situation addressed by the proposed model regulation and with encouragement from interested parties, the Task Force voted unanimously to adopt the model regulation with amendments on June 3, 2009, without an additional 30-day exposure period.

#### 6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

Issue #1 – Does the item provide relief without compromising regulatory objectives; the Task Force decided reserves for certain policies issued on a preferred basis may be overly conservative and that the reserves calculated under the 2001 CSO preferred mortality tables are adequate (assuming appropriate use of the tables) and therefore that this action may not compromise regulatory objectives.

Issue #2 – Accounting Treatment of the Reinsurance Deferred Premium Asset. Although the reserves for certain policies may be overly conservative, the Task Force decided some companies may already be addressing the overly conservative reserves through a questionable reinsurance accounting practice. For these companies, it would be ill-advised to allow them to further reduce reserves.

**7. Any Other Important Information (e.g., amending an accreditation standard).**

Although the Task Force adopted the model regulation without an additional 30-day exposure period for the revised transition rules, the model regulation is exposed for comment while awaiting action from the “A” Committee with comments forwarded to the “A” Committee staff support. The proposed model regulation is expected to have 30 days of exposure before being presented to the NAIC Executive and Plenary.

## PROJECT HISTORY - 2006

### MODEL REGULATION PERMITTING THE RECOGNITION OF PREFERRED MORTALITY TABLES FOR THE USE IN DETERMINING MINIMUM RESERVE LIABILITIES (#815)

#### Project Description

The proposed model regulation is connected with amendments to Actuarial Guideline XXXVIII (AG 38). The proposed changes in AG 38 benefited companies that wrote certain types of whole life policies. The proposed model regulation was intended to maintain the balance between whole life and term life insurance.

AG 38 was adopted by the NAIC in 2002 to address questions that arose regarding the appropriate application of the Valuation of Life Insurance Policies Model Regulation (often referred to as "XXX"). Section 8B was a temporary interpretation applicable to certain universal life policies issued between July 1, 2005, and March 31, 2007. These policies contained guarantees that the coverage would remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement. The drafting note of this section states:

The "sunset" on April 1, 2007, creates a sense of urgency that will drive all concerned to work towards the quick development of a "principles-based" valuation methodology or, as an interim step while continuing to work on such methodology, to adopt a more readily achievable solution that provides relief from overly conservative reserve levels such as a change to valuation mortality requirements.

Although the Life and Health Actuarial Task Force (LHATF) has continued to work towards the quick development of a "principles-based" valuation methodology, such a methodology could not be developed and effective prior to the sunset. There was a need for an interim solution. On November 11, 2005, the American Council of Life Insurers (ACLI) submitted a letter to LHATF proposing an interim solution, which included amendments to AG 38 and a model regulation that would permit the use of preferred mortality tables based on a split of the 2001 Commissioners Standard Ordinary Mortality Table (2001 CSO). On December 1, 2005, the ACLI formally presented its proposal to LHATF at the National Meeting.

#### Group Responsible for Drafting Model and States Participating

The ACLI prepared and presented the draft of the revision to the Actuarial Guideline.

The 2006 members of the Task Force are: New Mexico (Chair), Kansas (Vice-Chair), Alaska, Alabama, Arkansas, California, Connecticut, Florida, Kentucky, Minnesota, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Texas, and Utah.

#### General Description of Drafting Process

The Task Force discussed the matter at public hearings during the National Meetings in December 2005, March 2006 and June 2006. In addition, the Task Force held public conference calls on this topic on the following dates: February 3, 2006; April 27, 2006; July 10, 2006; August 2, 2006; August 4, 2006; and August 29, 2006. Notice of each of these conference calls was posted on the NAIC's home page on the Internet and e-mailed to approximately 300 interested parties, including representatives of the ACLI. Several dozen memos and letters were submitted to the Task Force relative to this project.

#### Significant Issues Raised

The following issues were raised relative to the proposed model regulation.

#### Question #1: Should the NAIC adoption a mortality table not produced by the Society of Actuaries?

Historically, the Society of Actuaries (SOA) has produced mortality tables and these tables were reviewed and modified by the American Academy of Actuaries (AAA), which provided public policy recommendations on the use of the tables. Industry had developed a split in the 1980 CSO Mortality table between smokers and non-smokers. This split was reviewed and adopted by the SOA and the AAA.

LHATF charged the SOA with reviewing the methodology used in developing the proposed split of the 2001 CSO. The SOA reviewed the method of construction of the split tables and reported that the method used was appropriate.

**Question #2: Does the proposed model regulation provide sufficient guidance on the use of preferred and residual tables?**

Some members and interested parties expressed concern that the proposed regulation allows the company's actuary to assign the table based on expected future experience without any guidance on how underwriting classes would be established. Some of the concerns included the use (possibly inadvertent) of proxies for race, economic status, or other inappropriate underwriting criteria. LHATF charged the AAA with reviewing the split for the appropriateness of its intended use as stated in the proposed model regulation. The AAA reviewed the split of the table for appropriateness for use as preferred and residual classes and determined that the tables could be appropriately used for these classes if proper guidance was provided on determining the appropriate table to use. The ACLI prepared a proposed actuarial guideline to provide guidance on the use of the preferred and residual tables. This actuarial guideline is being considered by LHATF, and a version of it is expected to be adopted by LHATF within a few months.

**Question #3: Is it appropriate to adopt a new mortality table when the AAA is expected to present a new table within a year?**

The AAA is expected to produce a new set of mortality tables in March 2007. The new tables are intended to be the starting tables for principles-based reserves. Industry expressed concerns that the effective date of principles-based reserves is unknown, and the use of a new table will present tax problems and require the filing of new policy forms.

**Question #4: Should the adoption of the proposed amendments to AG 38 and the proposed model regulation be considered together or separately?**

The ACLI had presented the two proposed documents together as a compromise between whole life and term life insurers, which would maintain balance. They stated that if only one of the documents were to be adopted, it would create an imbalance in the industry and requested that the two documents be considered as one packaged proposal. Some members wanted to vote on the two proposals separately. By a vote of 11 to 4, with 3 abstentions, LHATF decided to consider the two proposals as an integrated package.

**Question #5: Should regulators monitor the experience from the use of the split of the 2001 CSO?**

The proposed regulation is a movement towards principles-based reserves. It allows the company some discretion on which mortality table to use in establishing reserves. New York requested that a provision be added to the proposed model regulation, which would require companies to report their emerging experience to a statistical agent for regulatory review. The Task Force amended the model regulation to include this requirement.

**Question #6: Are the minimum reserves established by the proposed model regulation sufficient?**

The ACLI provided a number of examples compiled by a major consulting firm to help address the issue of sufficiency of reserves. The Task Force determined that with an actuarial guideline to provide direction on the appropriate use of the split of the 2001 CSO, the provisions of the model regulation addressing the use of overly optimistic assumptions, and an ability to monitor emerging experience, the reserves under the model regulation would be sufficient and could be monitored to verify future sufficiency.

**Other Pertinent Information Relative to the Proposed Model Regulation Adopted on August 29, 2006**

The Task Force's voted on August 29, 2006, to adopt the revisions to AG 38 by a vote of 12 "Yes," and 3 "No" with 4 members abstaining or not voting. The differing opinions among the Task Force members are described in the previous section.

Voting for the motion were Alabama, Arkansas, Connecticut, Kentucky, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, Texas and Utah.

Opposing the motion were California, Florida and Minnesota

Abstaining were Alaska, Kansas and South Carolina. New Mexico, in its position as chair, did not vote.