



Oregon
Tina Kotek, Governor



Department of Consumer
and Business Services

March 26, 2024

Submitted Electronically (www.insurancecompact.org)

Interstate Insurance Product Regulation Commission
Management Committee
1101 K Street, NW
Suite 650
Washington, D.C. 20001

To Whom It May Concern:

On behalf of the Oregon Division of Financial Regulation (“DFR” or “we”), we write this letter to provide comments on the Interstate Insurance Product Regulation Commission’s (“IIPRC” or “Compact”) proposed Uniform Standards for *Standards for Individual Deferred Index Linked Variable Annuity Contracts (Commonly Marketed as Registered Index Linked Annuities)* and amendments to *Additional Standards for Market Value Adjustment Feature Provided Through a Separate Account* presented at the joint meeting of the Management Committee and the IIPRC held March 18, 2024, in Phoenix, Arizona.

Thank you for the opportunity to provide written comment on the proposed Uniform Standards previously noted. DFR is a part of the Oregon Department of Consumer and Business Services (“DCBS”), Oregon’s largest consumer protection and business regulatory agency, and serves as the state insurance regulator. We provide the following comments.

General comments

If adopted, the proposed standards will be used in all Compact states, including Oregon, for use with individual deferred index linked variable annuity (“ILVA”) and registered index linked annuity (“RILA”) variable annuity contracts. These standards will exempt individual ILVA/RILA annuity contracts from the National Association of Insurance Commissioners (“NAIC”) Model #805 – Standard Nonforfeiture Law for Individual Deferred Annuities, on the basis that these are variable annuities and include index-linked crediting features that are built into the contract (with or without unitized subaccounts) or are added to such by rider, endorsement, or amendment and credits interest based on the performance of an index subject to index parameters such as caps, participation rates, spreads or margins, trigger or step rates, or other crediting elements and may lose value subject to limitations such as a floor or a buffer. The proposed standards do not preclude state product components allowed by the IIPRC operating procedures, commonly referred to as “mix-and-match”.

Additionally, the amendments to the standards for Market Value Adjustments (“MVA”) adds language regarding use of MVAs with individual non-variable annuities, modified guaranteed annuities (“MGA”), the non-guaranteed portion of ILVA/RILA contracts, and includes new language governing nonforfeiture values required by NAIC Model #805 – Standard Nonforfeiture Law for Individual Deferred Annuities, Model #255 – Modified Guaranteed Annuity Model Regulation, and Model #250 – Variable Annuity Model Regulation.

Requested comments concerning the proposed standards for nonforfeiture requirements.

The term “nonforfeiture rate” is defined on page two of the proposed amendments to the *Standards for Individual Deferred ILVA Contracts* and states:

“Nonforfeiture rate” is the interest rate used in determining the minimum nonforfeiture amount for any non-variable account value in compliance with NAIC Annuity Nonforfeiture Model Regulation, Model #806 and NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, Model #805, except that the minimum nonforfeiture rate must be consistent with the minimum nonforfeiture interest rate prescribed in the law of the state in which the policy is delivered or issued for delivery...”

However, in the draft amendments to *Additional Standards for Market Value Adjustment Feature for Modified Guaranteed Annuities and Index-Linked Variable Annuities*, the revised language pertaining to MVAs used with MGAs and ILVAs/RILAs appears to make no allowance for states to use nonforfeiture rates other than those prescribed in NAIC Models #250, #255, or #805, and makes no reference to Model #806.

Oregon does not follow the NAIC nonforfeiture models in all cases, especially when it comes to fixed accounts and general accounts, since we have our own statute that provides a better nonforfeiture rate for consumers than is required in the NAIC Models previously noted. The Compact normally includes provisions to allow states to use nonforfeiture rates required by state law. Please clarify how the draft amendments to the MVA requirements affect states that do not follow the NAIC nonforfeiture models in all cases. Will Oregon need to opt out of the new MVA requirements?

Requested comments concerning the proposed standards involving use of mix-and-match with product filings with ILVAs/RILAs.

The amended MVA standards continues to reference Section 111(b) of the Operating Procedure for the Filing and Approval of Product Filings. Oregon does not permit the use of mix-and-match with ILVA/RILA product filings. If the proposed amended MVA standards are adopted, please confirm that Oregon’s authority to restrict use of mix-and-match with ILVA/RILA product filings will not be reduced or otherwise impaired.

Requested comments concerning floor and buffer limitations in product filing with ILVAs/RILAs.

In the proposed *Standards for Individual Deferred Index Linked Variable Annuity Contracts (Commonly Marketed as Registered Index Linked Annuities)*, there does not appear to be specified limitations on how insurance companies can design product features for use with ILVAs/RILAs. For example, there appears to be no limitations on floor or buffer caps, meaning an insurer could theoretically design a product with a 0 percent floor or a 100 percent buffer, effectively creating a fixed rate product that does not expose the paid principal to market risk yet would still be designated as an ILVA/RILA that would not be subject to standard nonforfeiture requirements. Please clarify how the proposed draft standards would prevent this type of scenario from occurring.



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Closing Remarks

DFR appreciates the opportunity to provide feedback to the Compact concerning the proposed changes to the Uniform Standards. If you need further clarification on our comments, please contact:

Jesse O'Brien, Policy Manager
(971) 707-3670

Thank you,

/s/

Andrew Stolfi, Director
Oregon Department of Consumer and Business Services