



## MEMORANDUM

**TO:** Insurance Compact Management Committee

**FROM:** Product Standards Committee

**DATE:** June 17, 2019

**SUBJECT:** Additional Standards for Return of Premium for Individual Disability Income Insurance and draft Single Premium Group Fixed Annuity Contract Uniform Standards for Employer Groups.

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The Product Standards Committee (“PSC”) of the Interstate Insurance Product Regulation Commission (“Commission”) is charged with developing proposed drafts of Uniform Standards. In carrying out its charge, the PSC has finalized the following draft uniform standards, one for individual disability income insurance and the other as the first standard for the group annuity insurance product line, and is recommending that the Management Committee initiate the rulemaking procedure<sup>1</sup> with respect to these proposed uniform standards:

- **Additional Standards for Return of Premium for Individual Disability Income Insurance**
- **Single Premium Group Fixed Annuity Contract Uniform Standards for Employer Groups**

During the Five-Year Review of the individual Disability Income Insurance Uniform Standards in 2018, there was a request to add provisions for an optional return of premium benefit. The PSC agreed in principle with the request; however, they felt that more time was needed to develop a proposal. As a result, the PSC recommended, and the Management Committee agreed, to consider the benefit as an additional standard rather than as part of the *Standards for Individual Disability Income Insurance Policies*. In this manner, the other Five-Year Review amendments could move forward without waiting for this new standard.

Pursuant to §103 of the *Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission*, on April 23, 2019, the Commission issued notice requesting comments on a draft proposal for *Additional Standards for Return of Premium for Individual Disability Income Insurance*. The draft was the result of a review of existing return of

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<sup>1</sup> The rulemaking procedure is set forth in the *Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission*.

premium benefit forms in the marketplace today, discussion with companies who market these products, regulatory requirements, consideration of the return of premium standards for individual life insurance products, and PSC input. The PSC held a public call on May 21, 2019 to discuss the draft. Comments were received from two member states and two company filers. Most comments were suggestions for edits to clarify the intent of the uniform standards; however one member state (Oregon) expressed concern with the process for developing product standards and seeking public comment; questioned why the change was outside of the Five-Year Review, and also suggested allowing states the opportunity to learn more about how insurers will use this product type in the market before moving forward with these standards. The PSC noted that the Rulemaking Committee was addressing the previously noted comments about the process for developing product standards; the reason for the standard being developed outside the Five-Year Review had been explained, and that return of premium riders for disability income insurance are not new benefit features, rather have been offered in the marketplace for more than 20 years.

The PSC does not recommend that this benefit feature be available to be used in combination with State Product Components as described in Section 111(b) of the *Operating Procedure for the Filing and Approval of Product Filings*, and that filings submitted under these Uniform Standards be subject to prior review and approval and not self-certification.

The second recommendation is to initiate the rulemaking procedure with respect to the first of the Insurance Compact's uniform standards for the group annuity product line. Pursuant to §103 of the *Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission*, on September 25, 2018, the Commission issued notice requesting comments on a draft proposal for *Single Premium Group Fixed Annuity Contract Uniform Standards for Employer Groups*. The draft was developed with input from several group annuity insurers who are members of the Group Annuity and Pension Compliance Association, as well as review of filed contracts in the marketplace today and review of state requirements. Single premium group fixed annuities are contracts issued to employers as part of a Pension Risk Transfer. In exchange for the single premium, the insurer assumes liability for and guarantees the payment of fixed annuity benefits to eligible Plan participants.

These uniform standards apply to the contract; additional uniform standards are being developed for the group annuity certificates. The PSC anticipates these will be the next recommended uniform standards.

The Committee recommends these uniform standards not be available for Mix and Match to be used in combination with State Product Components as described in Section 111(b) of the *Operating Procedure for the Filing and Approval of Product Filings*. The PSC also recommends that the standards be available for use in combination with Compact-approved group life insurance and annuity forms and that filings submitted under these uniform standards be subject to prior review and approval and not self-certification.

The PSC exposed several updates to the draft for public comment and held two public calls to obtain further input. Comments were received from two member states, two company filers and the ACLI.

An area of considerable discussion was consideration of these products as fixed annuities when funds could be held in the general or a separate account. Group annuity writers explained that separate account assets are not plan assets and are not used as an accumulation vehicle. The purpose of the separate account is for solvency protection. The annuity payments are fixed, not variable, and the annuity benefits are guaranteed by the insurer should the separate account become exhausted. Based on discussions, the Scope was revised to make it clear that the standards apply to single premium, fixed payment annuities where funds are held in the general or in a book value separate account and the amount of the benefits paid under the contract does not vary with the investment performance of the separate account. The Scope also states that the insurance company guarantees all annuity payments purchased under the contract.

Two member states, Texas and Minnesota, noted that they have restrictions or additional requirements for guaranteed separate accounts for all contracts issued in their states, not just their domestic insurers. As a result, the PSC added a statement within the Scope section that advises that approval by the Commission of an insurance product filing in compliance with this Uniform Standard is not deemed as regulatory approval of the company's use of separate accounts which are guaranteed in whole or in part by the general account and that action may be required by the domiciliary state and/or state of issue before an insurer may use the Commission-approved contract.

There were several comments from industry representatives seeking modifications to language found in many other adopted Uniform Standards. Absent clear reasons for such change, the PSC chose to be consistent with other standards and is not recommending such changes.

There were several comments from a Member State seeking addition of standards related to loans, reinstatement provisions, grace periods, and incontestability. The PSC determined that these provisions were not generally applicable to a single premium group fixed annuity contract. The remaining discussions centered around revisions to clarify and strengthen the standards.

Given the extensive, transparent, and documented drafting process preceding this recommendation, the PSC suggests that any additional comments or concerns about these recommended Uniform Standards be raised, considered, and discussed by all members and interested parties during the Management Committee's formal rulemaking process.

The PSC is available to respond to any questions or requests for information to assist the Management Committee.