

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

Including PSC Proposed Recommendations for Public Comment on 7/29/14

Clarification items

Clarification items are proposed edits to clarify the meaning, application, and/or intent of a provision in the Uniform Standard. Clarification items would not change the meaning or effect of the provision or the current application and interpretation of the provision or Uniform Standard but would provide further or detailed explanation, description, or specification to the language in the Uniform Standard. The clarification items are compiled not only from suggestions or issues in the Comments but also from questions, issues, and circumstances that have arisen in the application and interpretation of the Uniform Standards by the IIPRC product and actuarial reviewers. Based upon the feedback of the PSC, the IIPRC Office will insert and clearly distinguish clarification items in the Uniform Standards.

List of Clarification Items

1. Deferred Variable Annuity Standards
2. Fairness
3. Deferral of Payments
4. Actuarial Memorandum Requirements
5. Dividend Options – Participating Contracts
6. Bonus Features for Deferred Annuities
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1. DEFERRED VARIABLE ANNUITY STANDARDS

APPLIES: Individual Flexible Premium Deferred Variable Annuity Contract Standards and Individual Fixed Premium Deferred Variable Annuity Contract Standards

COMMENTS:

IIPRC Office Comment/Observation: The deferred variable annuity standards were developed first before the more comprehensive Core Standards for Individual Deferred Variable Annuity Contracts. No code was assigned to either of these standards because the intent was that they would be repealed once the Core Standards were adopted. IIPRC staff does not use these standards for any filings

IIPRC Office Recommendation: The IIPRC Office recommends repealing the Individual Flexible Premium Deferred Variable Annuity Contract Standards and the Individual Fixed Premium Deferred Variable Annuity Contract Standards. These standards have never been used to approve a form filing and have been replaced by the more extensive Core Standards for Individual Deferred Variable Annuity Contracts.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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2. FAIRNESS

APPLIES: General Form Requirement in Core Standards for Individual Deferred Annuity Contracts and Individual Immediate Annuity Contracts

CURRENT PROVISION:

§ 2 GENERAL FORM REQUIREMENTS

C. FAIRNESS

- (1) The contract shall not contain inconsistent, ambiguous, unfair, inequitable or misleading clauses, provisions that are against public policy as determined by the Interstate Insurance Product Regulation Commission, or contain exceptions and conditions that unreasonably affect the risk purported to be assumed in the general coverage of the contract.

COMMENTS:

Industry Advisory Committee Comment: The IAC has requested adding "nor contain" to the Fairness provision to clarify the intent.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office has no objection to this change and agrees it would be a clarification as follows:

C. FAIRNESS

- (1) The contract shall not contain inconsistent, ambiguous, unfair, inequitable or misleading clauses, **nor contain** provisions that are against public policy as determined by the Interstate Insurance Product Regulation Commission, **nor** contain exceptions and conditions that unreasonably affect the risk purported to be assumed in the general coverage of the contract.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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3. DEFERRAL OF PAYMENTS

APPLIES: Contract provision requirement in Core Standards for Individual Deferred Annuity Contracts and Individual Immediate Annuity Contracts

CURRENT PROVISION:

§ 3 CONTRACT PROVISIONS

DEFERRAL AND VALUATION OF PAYMENTS

(2) For values in a general account, the company may reserve the right to defer payment of surrenders, partial withdrawals and loans for a period of six months. There shall be no deferral of payment of any portion of the death benefit derived from the general account.

COMMENTS:

IIPRC Office Comments/Observations: The IIPRC Office notes that § 1 Additional Submission Requirements require certification by a company officer that written consent will be made and obtained from the chief insurance regulator of the state of domicile of the company if the company is exercising contractual right to defer payment for a period of no more than six months, of any general account cash surrender value, partial withdrawal or loan value. This is in accordance with Standard Nonforfeiture Laws for Annuities. It may be clearer to also include language regarding the need for regulator approval of the contract provision in § 3 Contract Provisions - Deferral and Valuation of Payments.

IIPRC Office Recommendation: The IIPRC Office recommends the following clarifying language be added to § 3 Contract Provisions - Deferral and Valuation of Payments:

For values in a general account, the company may reserve the right to defer payment of surrenders, partial withdrawals and loans for a period of six months **after making written request and receiving written approval of the chief insurance regulator of the state of domicile of the company.** There shall be no deferral of payment of any portion of the death benefit derived from the general account."

July 9, 2014 IIPRC Office Update: On July 8, 2014 the IAC provided oral public comments and submit written comments on this item:

Industry Advisory Committee Comment: The right to reserve a deferment provision would be included in each form filed for approval with the IIPRC - without it the company had not reserved the right and therefore should not be allowed to request permission from the state of domicile to defer. Including the "reserved right" lets a policyholder know that this may happen. Consequently, all companies will include this provision when they file with the IIPRC.

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We think the intent was to say that if a company wants to exercise the right to defer, it then needs to file with the state of domicile. To fix this, we suggest:

For values in a general account, the company may reserve the right to defer payment of surrenders, partial withdrawals and loans for a period of six months *If a company elects to exercise deferment, the company shall make a written request and receive written approval of the chief insurance regulator of the state of domicile of the company.*

Revised IIPRC Office Recommendation: The IIPRC Office agrees that the intent of the change was to clarify that if the company wishes to exercise the option to defer payment, it must seek the required regulatory approval. The IIPRC Office recommends the revision with the language proposed by the IAC in its July 8, 2014 comment letter as follows:

For values in a general account, the company may reserve the right to defer payment of surrenders, partial withdrawals and loans for a period of six months *If a company elects to exercise deferment, the company shall make a written request and receive written approval of the chief insurance regulator of the state of domicile of the company.* There shall be no deferral of payment of any portion of the death benefit derived from the general account."

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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4. ACTUARIAL MEMORANDUM REQUIREMENTS

APPLIES: Additional Submission Requirements of the Core Standards for Individual Deferred Nonvariable Annuity Contracts and Core Standards for Individual Deferred Variable Annuity Contracts

CURRENT PROVISION:

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

B. ACTUARIAL MEMORANDUM REQUIREMENTS

- (1)(f) A nonforfeiture demonstration that the values of the contract comply with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805. The free partial withdrawal provision of the contract may be used in the demonstration of compliance, if applicable. The nonforfeiture calculations shall be presented in the format prescribed in Appendix A of these standards. For the purpose of the nonforfeiture demonstration, notwithstanding the language of the contract, the maturity date shall be the later of the tenth contract anniversary or the contract anniversary following the annuitant's 70th birthday, except as provided for by Items 3 and 7 of the Guidelines to Appendix A. Maturity value used to demonstrate compliance with the prospective test shall be the contract account value. No surrender charge is permitted on or past the maturity date;

COMMENTS:

IIPRC Office Comments/Observations: The IIPRC Office notes that the current provision that the maturity date shall be the later of the tenth contract anniversary or the contract anniversary following the annuitant's 70th birthday refers to exceptions under Items 3 and 7 of Appendix A. The reference should be to items 3 and 8. In addition IIPRC staff note that Appendix A is a set of Guidance not Guidelines. so striking the reference to Guidelines would provide clarity.

IIPRC Office Recommendation: The IIPRC Office recommends the following clarifying language correcting the provision to refer to the exception in Item 8 of Appendix A and striking the reference to Guidelines to provide clarity:

- (1)(f) A nonforfeiture demonstration that the values of the contract comply with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805. The free partial withdrawal provision of the contract may be used in the demonstration of compliance, if applicable. The nonforfeiture calculations shall be presented in the format

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prescribed in Appendix A of these standards. For the purpose of the nonforfeiture demonstration, notwithstanding the language of the contract, the maturity date shall be the later of the tenth contract anniversary or the contract anniversary following the annuitant's 70th birthday, except as provided for by Items 3 and **7 8** of ~~the Guidelines to~~ Appendix A. Maturity value used to demonstrate compliance with the prospective test shall be the contract account value. No surrender charge is permitted on or past the maturity date;

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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5. DIVIDEND OPTIONS – PARTICIPATING CONTRACTS

APPLIES: Contract provisions section of Individual Immediate Non-Variable Annuity Contract Standards and Individual Immediate Variable Annuity Contract Standards

CURRENT PROVISION:

§ 3 CONTRACT PROVISIONS

P. PARTICIPATING CONTRACT

A contract may be non-participating; however, if the contract is participating in the divisible surplus of the company, then the following shall apply:

- (1) The conditions of the participation shall be stated in the contract.
- (2) The contract shall provide that the company shall annually ascertain and apportion any divisible surplus.
- (3) The contract shall provide that the owner shall receive any dividend paid in cash.

COMMENTS:

IIPRC Office Comments/Observations: The Participating Contract section of the Individual Deferred Paid-Up Non-Variable Annuity Contract Standards (Longevity Standards) requires the contract to describe the available dividend options including identification of the automatic option. It also requires that dividends used to purchase additional income benefits are subject to the same standards as additional premium payments made after issue. To assure consistency, IIPRC staff applies these requirements to Individual Immediate Non-Variable Annuity Contract and Individual Immediate Variable Annuity Contract

IIPRC Office Recommendation: The IIPRC Office recommends adding the provision found in the Longevity standards to the Individual Immediate Non-Variable Annuity and Individual Immediate Variable Annuity Contract Standards to clarify that these standards are subject to the same requirements as found in the Participating Contract section of the Individual Deferred Paid-Up Non-Variable Annuity Contract Standards.

(4) The contract shall describe the available dividend options. If the contract provides for more than one dividend option, the contract shall identify the automatic option. Dividends used to purchase additional income benefits shall

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be subject to the same requirements of this standard as additional premium payments made after issue.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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6. BONUS FEATURES FOR DEFERRED ANNUITIES

APPLIES: Scope and General Form Requirements of Additional Standards for Bonus Benefits (for Individual Deferred Non-Variable Annuities) and Additional Standards for Bonus Benefits (for Individual Deferred Variable Annuities).

CURRENT PROVISION:

Scope:

These standards apply to bonus benefits that are built into individual deferred non-variable annuity contracts or added to such contracts by rider, endorsement or amendment. The bonus benefit can be an interest bonus, a premium bonus, a persistency bonus or any other amounts/percentages that are credited to the premiums paid, account value, cash value, cash surrender value or annuity/maturity value under a specified condition, other than benefits of the type described above that are provided through any pattern of non-level interest rate guarantees that may be similar to but are not specifically referred to as bonuses or additional credits. The bonus benefit form may reference the bonus as a credit, enhancement, bonus or similar terminology.

GENERAL FORM REQUIREMENTS

SPECIFICATIONS PAGE

(1) The specifications page of the bonus benefit form shall include any guaranteed elements used in determining the bonus benefit and a statement, if applicable, that:

(a) The elements used in determining the bonus benefit are not guaranteed and can be changed by the company, subject to the guarantees in the bonus benefit form, and that any such changes can affect the account value.

(b) There may be situations in which the bonus benefit may not be fully earned and the owner should read the bonus benefit, surrender charge and bonus benefit forfeiture provisions (or the provisions where those topics are addressed) of the contract carefully.

(2) The specifications page of the bonus benefit form shall include any identifiable charge for the bonus benefit.

CONDITIONS UNDER WHICH BONUS BENEFIT MAY BE FORFEITED

(1) The contract may, at the option of the company, deduct from the account value the amount of any bonus benefit credited, provided the following conditions are met:

(a) The conditions for forfeiture are described in the contract;

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(b) Forfeiture of the bonus will not reduce the cash value below the minimum nonforfeiture benefit as required under this standard; and

(c) No bonus will be forfeited on or after the maturity date, as defined in the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805, as interpreted in the Individual Deferred Non-Variable Annuity Contract Standards, to which the bonus benefit standards are attached.

COMMENTS:

IIPRC Office Comments/Observations: On September 28, 2010 the IIPRC Office issued Filing Information Notice (FIN) 2010-2 to provide clarification on submission of product filings where the contract has a range of bonus rates varying based on premium or account values. The IIPRC Office suggests incorporating these clarifications into the Additional Standards for Bonus Benefits to assist filers and eliminate unnecessary objections.

IIPRC Office Recommendation:

- 1.) The IIPRC recommends adding a sentence to the Scope specifically stating that products with a zero bonus are non-bonus products and not subject to these standards.

Scope: These standards apply to bonus benefits that are built into individual deferred non-variable annuity contracts or added to such contracts by rider, endorsement or amendment. **These standards do not apply to products with a zero (0) bonus.**

- 2.) The IIPRC recommends the following change to the Specifications Page provision:

- (1) The specifications page of the bonus benefit form shall include any guaranteed elements used in determining the bonus benefit and a statement, if applicable, that:

- (a) The elements used in determining the bonus benefit are not guaranteed and can be changed by the company, subject to the guarantees in the bonus benefit form, and that any such changes can affect the account value.

- (b) There may be situations in which the bonus benefit may not be fully earned and the owner should read the bonus benefit, surrender charge and bonus benefit forfeiture provisions (or the provisions where those topics are addressed) of the contract carefully.

- (2) The specifications page of the bonus benefit form shall include any identifiable charge for the bonus benefit.

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(3) Separate forms must be submitted when the product is being offered with bonus and non-bonus features. Separate specifications pages to handle both cannot be accepted.

(4) In lieu of separate forms, variations in types of bonuses, or guaranteed elements for bonus features, can be shown through different specifications pages, with a generic cover page indicating a Bonus is present.

3.) The IIPRC recommends the following change to the Conditions Under Which Bonus Benefit May Be Forfeited provision:

(1) The contract may, at the option of the company, deduct from the account value the amount of any bonus benefit credited, provided the following conditions are met:

- (a) The conditions for forfeiture are described in the contract;
- (b) Forfeiture of the bonus will not reduce the cash value below the minimum nonforfeiture benefit as required under this standard; and
- (c) No bonus will be forfeited on or after the maturity date, as defined in the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805, as interpreted in the Individual Deferred Non-Variable Annuity Contract Standards, to which the bonus benefit standards are attached.

(d) A zero bonus is not acceptable under the conditions outlined.

July 9, 2014 IIPRC Office Update: On July 8, 2014 the IAC provided oral public comments and submit written comments on this item:

Industry Advisory Committee Comment: (Related to the change to the Specifications Page provision) We are not sure what “separate forms” means - we think you mean separate policy forms or separate rider, amendment or endorsement forms, right? Some people think of specification pages as “forms”, so just thought this could be said more clearly.

This is what it says now with our changes in blue:

(3) Separate policy forms must be submitted when the product is being offered with bonus and non-bonus features. Separate specifications pages to handle both cannot be accepted.

We think what is intended in (4) is to say that for bonus variations, the variations do not require separate policy forms, but the way (4) reads now, it looks like it qualifies (3) which we don't think is the intent.

Maybe a better (4) is:

“(4) For variationsbonus features, these variations can be shown through different

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specifications pages, with a generic cover page indicating that a bonus is included. Alternatively, separate policy forms may be submitted to reflect the variations.”

Revised IIPRC Office Recommendation: The IIPRC Office agrees that the edits proposed by the IAC would provide more clarity. The recommendation changes are as follows:

- 1.) The IIPRC recommends adding a sentence to the Scope specifically stating that products with a zero bonus are non-bonus products and not subject to these standards.

Scope: These standards apply to bonus benefits that are built into individual deferred non-variable annuity contracts or added to such contracts by rider, endorsement or amendment. **These standards do not apply to products with a zero (0) bonus.**

- 2.) The IIPRC recommends the following change to the Specifications Page provision:

- (1) The specifications page of the bonus benefit form shall include any guaranteed elements used in determining the bonus benefit and a statement, if applicable, that:

- (a) The elements used in determining the bonus benefit are not guaranteed and can be changed by the company, subject to the guarantees in the bonus benefit form, and that any such changes can affect the account value.

- (b) There may be situations in which the bonus benefit may not be fully earned and the owner should read the bonus benefit, surrender charge and bonus benefit forfeiture provisions (or the provisions where those topics are addressed) of the contract carefully.

- (2) The specifications page of the bonus benefit form shall include any identifiable charge for the bonus benefit.

(3) Separate policy forms must be submitted when the product is being offered with bonus and non-bonus features. Separate specifications pages to handle both cannot be accepted.

(4) In lieu of separate forms, For variations in types of bonuses or guaranteed elements for bonus features, these benefits can be shown through different specifications pages, with a generic cover page indicating a Bonus is present. Alternatively, separate policy forms may be submitted to reflect the variations.

- 3.) The IIPRC recommends the following change to the Conditions Under Which Bonus Benefit May Be Forfeited provision:

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(1) The contract may, at the option of the company, deduct from the account value the amount of any bonus benefit credited, provided the following conditions are met:

- (a) The conditions for forfeiture are described in the contract;
- (b) Forfeiture of the bonus will not reduce the cash value below the minimum nonforfeiture benefit as required under this standard; and
- (c) No bonus will be forfeited on or after the maturity date, as defined in the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805, as interpreted in the Individual Deferred Non-Variable Annuity Contract Standards, to which the bonus benefit standards are attached.

(d) A zero bonus is not acceptable under the conditions outlined.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the Revised IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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7. SCOPE OF INDEX-LINKED CREDITING FEATURE – DEFERRED NON-VARIABLE ANNUITIES

APPLIES: Standards for Index-Linked Crediting Feature for Deferred Non-Variable Annuities

CURRENT PROVISIONS:

Scope: These standards apply to index-linked crediting features that are built-in to individual deferred non-variable annuity contracts.

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

(c) An opinion statement that the company's investments backing the contract are appropriate considering the index used and including confirmation that this opinion is based on the actuary's review of the Company's documented investment policy as it relates to index-linked annuities; and

§3 CONTRACT PROVISIONS

A. AMENDMENTS

(1) The contract may provide for amendments made pursuant to the Discontinuation of or Substantial Change to an Index section of the standards.

COMMENTS:

Industry Advisory Committee Comments: The IAC recommends changes to this standard to clarify the original intent that the standard is applicable to both non-variable annuities and the general account portion of variable annuities. These are the same changes that were made to the Additional Standards for Index-Linked Crediting Benefit Features for Individual Adjustable Life Policies effective June 25, 2009.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office has no objection to clarifying this standard to conform to the revisions made to the Additional Standards for Index-Linked Crediting Benefit Features for Individual Adjustable Life Policies as follows:

Standard Title: Standards for Index-Linked Crediting Feature for Deferred Non-Variable Annuities **and the General Account Portion of Individual Deferred Variable Annuity Contracts**

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Scope: These standards apply to index-linked crediting features that are built-in to individual deferred non-variable annuity contracts ~~or~~ **or the general account portion of individual deferred variable annuity contracts.**

In addition to the Core Standards requirements for the applicable individual deferred annuity contract, the following standards, as appropriate, apply:

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

(c) An opinion statement that the company's investments backing the contract **or the applicable general account portion of the contract** are appropriate considering the index used and including confirmation that this opinion is based on the actuary's review of the Company's documented investment policy as it relates to index-linked annuities;

§3 CONTRACT PROVISIONS

A. AMENDMENTS

(1) The contract may provide for amendments made pursuant to the Discontinuation of or Substantial Change to an Index section of the standards. **The change shall be made by the use of an endorsement subject to the applicable prior approval requirement.**

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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8. APPENDIX AND CERTIFICATION – INDEX-LINKED CREDITING FEATURE

APPLIES: Index Linked Crediting Feature for Deferred Non-Variable Annuities

CURRENT PROVISION:

Index-Linked Appendix

Initial Actuarial Certification of Compliance for Index-Linked Annuities with the NAIC Model Annuity Nonforfeiture Model Regulation

For use with Equity-Indexed (referred to by the Interstate Insurance Product Regulation Commission as Index-Linked) Annuity contract forms at time of filing.

I, (state name and professional designation) am responsible for evaluating compliance with the NAIC Model Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation for (name of insurance company). I have reviewed (identify contract form) and am familiar with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation as they pertain to equity-indexed annuities. I have also reviewed the methodology that will be used in calculating and setting assumptions for the additional reduction in nonforfeiture rate for equity-indexed annuities. Based on my review, I certify that the methodology used for (identify contract form) meets the minimum requirements of the NAIC Model Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation.

COMMENTS:

Industry Advisory Committee Comment: The IAC suggests clean-up to the language in the appendix to make the wording more consistent with other parts of the standard.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office has no objection to this change and agrees it would be a clarification and not a substantive change:

Index-Linked Appendix

Initial Actuarial Certification of Compliance with the NAIC Model Annuity Nonforfeiture Regulation for Index-Linked Crediting Feature of Individual Deferred Non-Variable Annuities or the General Account Portion of Individual Deferred Variable Annuities, with the NAIC Model Annuity Nonforfeiture Model Regulation.

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~~For use with Equity-Indexed (referred to by the Interstate Insurance Product Regulation Commission as Index-Linked) Annuity contract forms at time of filing.~~

I, (state name and professional designation) am responsible for evaluating compliance with the NAIC Model Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation for (name of insurance company). I have reviewed (identify contract form) and am familiar with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation as they pertain to **equity-indexed index-linked annuities (called equity-indexed annuities in the model law and regulation)**. I have also reviewed the methodology that will be used in calculating and setting assumptions for the additional reduction in nonforfeiture rate for **equity-indexed index-linked annuities**. Based on my review, I certify that the methodology used for (identify contract form) meets the minimum requirements of the NAIC Model Standard Nonforfeiture Law for Individual Deferred Annuities and the NAIC Annuity Nonforfeiture Model Regulation.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

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9. VARIABILITY OF INFORMATION – TAX CODE SECTIONS

APPLIES: Additional submission requirements in Standards for Forms Used to Provide Tax Qualified Plan Provisions for Individual Life Insurance Policies and Standards for Forms Used to Provide Tax Qualified Plan Provisions for Individual Annuity Contracts.

CURRENT PROVISION:

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

B. VARIABILITY OF INFORMATION

The company shall file tax qualified plan provisions on a specific basis, where each filing accommodates only the specified tax code. The company may identify items that will be considered variable. The item shall be bracketed or otherwise marked to denote variability. The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change.

The tax qualified plan provisions to be used shall be consistent with the Statement of Variability filed for such provisions and the Statement of Variability filed for the individual life insurance policy.

Items such as officer titles and officer signatures may be denoted as variable and may be changed without notice or prior approval.

COMMENTS:

Industry Advisory Committee Comment: The IAC notes that there are several tax code sections that share the same requirements, such as unisex rating, and it should not be necessary to file different policies or riders, amendments or endorsements to accommodate each tax code section. The IAC provided the following example of tax code sections that could be accommodated with one filing: TSA/403B; Simple IRA; SEP; Roth IRA ; Profit Sharing; Pension; Non-Qualified Section 457; Money Purchase; Keough; Inherited Roth IRA; Inherited IRA; IRA; Defined Benefit; 412(i) Transfer; 412(i); 412(e)(3) Transfer; 412 (e)(3); 401(k) Profit Sharing; 401(k) Money Purchase; 401(k); 401(a).

The IAC believes that the intent of the first provision was to say:

The company shall file tax qualified plan provisions on a specific basis, when the provision is specific to a specified tax code section, and when each filing accommodates only such specified tax code section. When qualified plan provisions are applicable to more than one specific tax code section, the company shall identify the applicable tax code sections in the Statement of Variability.

In addition, the IAC suggests that the three requirements in this section should be assigned a numeric prefix for clarity.

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IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office has no objection to this change and agrees it would be a clarification and not a substantive change as follows:

B. VARIABILITY OF INFORMATION

(1) The company shall file tax qualified plan provisions on a specific basis, when the provision is specific to a specified tax code section, where and when each filing accommodates only ~~the~~ such specified tax code section. When qualified plan provisions are applicable to more than one specific tax code section ~~the~~ company ~~may~~ shall identify the applicable tax code sections in the items that will be considered variable. The item shall be bracketed or otherwise marked to denote variability. The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change.

(2) The tax qualified plan provisions to be used shall be consistent with the Statement of Variability filed for such provisions and the Statement of Variability filed for the individual life insurance policy.

(3) Items such as officer titles and officer signatures may be denoted as variable and may be changed without notice or prior approval.

PSC PROPOSED RECOMMENDATION: The PSC's understanding of the proposal is that the revision would only apply if the language was identical except for the tax code reference that is applicable to the form. The company could then use the same form, except the tax code reference included in the form would be bracketed and varied. The PSC requested the IIPRC Office review approved tax-qualified forms and it was not able to find examples that would fit the need for this request. In other words, the language – in addition to the tax code reference – was varied and not identical based on the type of tax code. At this point, the PSC has not been able to identify instances where only the tax code reference would be variable and is not inclined to make this change. The PSC requests the Industry Advisory Committee provide specific examples of qualified plan provisions that are identical across tax code sections, specifically by providing examples where the language across tax qualified plans are identical and only the reference to the tax code varies. The Committee is seeking public comments on this item before finalizing a recommendation.

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

Including PSC Proposed Recommendations for Public Comment on 7/29/14

10. BENEFIT PROVISIONS –TAX QUALIFIED PLANS

APPLIES: Form requirement in Standards for Forms Used to Provide Tax Qualified Plan Provisions for Individual Life Insurance Policies and Standards for Forms Used to Provide Tax Qualified Plan Provisions for Individual Annuity Contracts.

CURRENT PROVISION:

§ 2 BENEFIT PROVISIONS

A. REQUIREMENTS FOR TAX QUALIFIED PLAN PROVISIONS

(3) The form shall specify the tax code and relevant sections requiring the tax qualified plan provisions.

COMMENTS:

Industry Advisory Committee Comment: The IAC suggests that because there are several tax code sections that share the same requirements, such as unisex rating, it would be beneficial to revise this provision to clarify that the intent is only to require this provision if the form is only applicable to a specified tax code section.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office has no objection to this change and agrees it would be a clarification and not a substantive change as follows:

(3) **If the form is only applicable to a specified tax code section,** ~~t~~The form shall specify the tax code and relevant sections requiring the tax qualified plan provisions.

PSC PROPOSED RECOMMENDATION: Because this item is related to item 9 above, the PSC would like industry to provide more specific examples of how the revised standard listed under item 9 would be applied, specifically by providing examples where only the reference to the tax code varies, not the text provisions, prior to finalizing a recommendation. The Committee is seeking public comments on this item.

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

Including PSC Proposed Recommendations for Public Comment on 7/29/14

11. SEPARATE ACCOUNTS

APPLIES: Definitions, general filing submission requirements and contract provisions in Core Standards for Individual Deferred Variable Annuity Contracts and Individual Immediate Variable Annuity Contract Standards

CURRENT PROVISIONS:

Definitions

“Account value” is:

- (1) For general accounts, the total amount of premium allocated to the general account, adjusted by partial withdrawals, transfers, specified charges and expenses, accumulated at interest periodically credited by the company, but at no less than the guaranteed minimum interest rate.
- (2) For separate accounts, the total amount of premium allocated to the separate account, adjusted by partial withdrawals, transfers, specified charges and expenses and the investment results of the separate account.

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

The following additional filing submission requirements shall apply:

- (1) All forms filed for approval shall be included with the filing. Changes to a previously approved form shall be highlighted. The specifications page of a contract shall be completed with hypothetical data that is realistic and consistent with the other contents of the contract and any required actuarial memorandum in support of nonforfeiture values.
- (2) If a filing is being submitted on behalf of a company, a letter or other document authorizing the firm to file on behalf of the company shall be included with the filing.
- (3) If the filing contains an insert page, an explanation of when the insert page will be used should be included in the filing.
- (4) If the specifications page of the contract contains variable items, the submission shall include the Statement of Variability. The submission shall also include a certification that any change or modification to a variable item shall be administered in accordance with the requirements in the Variability of Information section, including any requirements for prior approval of a change or modification.
- (5) If the contract provides for a benefit waiving surrender charges contingent on a declared interest rate, the company shall provide a certification that the owner will be provided a timely notification when the declared interest rate declines to a point at which the waiver of surrender charge benefit is available.
- (6) Include a statement that the contract is subject to federal jurisdiction and accordingly the Flesch requirements do not apply.
- (7) Certification by a company officer that written request will be made to and written approval received from the chief insurance regulator of the state of domicile of the company prior to the

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

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company exercising any contractual right to defer the payment of any general account cash surrender value, partial withdrawal, or loan value for a period of not more than six months.

(8) Where separate accounts and funds available at issue under the contract are described in the application form, a copy of the application form to be used for the contract, if not concurrently submitted for approval, shall be submitted informationally at the time of submission of the individual deferred variable annuity contract.

(9) If the contract is for use with more than one plan, the submission shall include a separate set of uniquely numbered specifications pages for each plan being submitted for approval, along with a separate actuarial memorandum for each plan. The company may not use the same contract form to provide alternate plans by making any features and benefits described in the contract as inapplicable by a zero entry or by indicating that the benefit is not applicable on the specifications page or in the contract. For example, the use of one contract with and without surrender charges is unacceptable.

(10) A description of any innovative or unique features of each contract form.

§ 3 CONTRACT PROVISIONS **SEPARATE ACCOUNTS**

(2) The contract may contain a provision stating that the portion of assets of a separate account equal to the reserves and other contract liabilities with respect to the account shall not be charged with liabilities arising out of any other business the company may conduct.

COMMENTS:

IIPRC Office Comments/Observations: on December 13, 2011, the IIPRC office issued Filing Information Notice 2011-1 to provide clarification that the investment performance of assets of the separate account or each subaccount of the separate account for a variable annuity product must be allocated directly to the benefit option through the incorporation of unit-linked contract values and to require all new variable annuity product filings with separate accounts to include a statement that the separate accounts underlying the filing comply with or have been authorized by the State of Domicile, including Commissioner approval if required.

IIPRC Office Recommendation: The IIPRC office recommends clarifying the applicable variable annuity standards by specifying in the definition of “Account Value” that fixed interest options are a part of the general account and the investment performance of separate accounts must be allocated directly to the benefit option through unit-linked contract values. The Office also recommends adding the required statement that the separate accounts comply with the requirements of the State of Domicile to the Additional Submission Requirements and adding a requirement in the Contract Provisions for Separate Accounts requiring the contract to include a provision that the domiciliary state

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

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requires the separate accounts to be insulated in applicable cases to clarify current processes.

Recommended revisions are as follows:

Core Standards for Individual Deferred Variable Annuity Contracts

Definitions

“Account value” is:

(1) For general accounts, the total amount of premium allocated to the general account, adjusted by partial withdrawals, transfers, specified charges and expenses, accumulated at interest periodically credited by the company, but at no less than the guaranteed minimum interest rate.

Any fixed interest option is part of the general account.

(2) For separate accounts, the total amount of premium allocated to the separate account, adjusted by partial withdrawals, transfers, specified charges and expenses and the investment results of the separate account. **Separate accounts or subaccount assets of the separate account reflect direct allocation of the investment performance of the separate accounts or subaccount assets through the incorporation of unit-linked contract values.**

Individual Immediate Variable Annuity Contract Standards

Scope: These standards apply to individual life contingent immediate variable annuity contracts, both with or without a period certain, that provide for a single premium payment, and that provide for funds to be held in separate accounts* only or in separate and general accounts.** The standards apply to fixed and/or variable annuity payments for the life of the contract. The standards do not apply to an individual immediate variable annuity contract that provides for guarantees for separate account funds, or liquidity benefits other than commutation of any guaranteed life contingent or non-life contingent annuity benefits.

*** Separate accounts or subaccount assets of the separate account reflect direct allocation of the investment performance of the separate accounts or subaccount assets through the incorporation of unit-linked contract values.**

**** Any fixed interest option is part of the general account.**

Core Standards for Individual Deferred Variable Annuity Contracts **Individual Immediate Variable Annuity Contract Standards**

§ 1 ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

The following additional filing submission requirements shall apply:

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

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New Item: If the product contains separate accounts, a statement from the company that "The separate accounts underlying the filing comply with or have been authorized by the State of domicile, including Commissioner approval if required."

Core Standards for Individual Deferred Variable Annuity Contracts **Individual Immediate Variable Annuity Contract Standards**

§ 3 CONTRACT PROVISIONS

SEPARATE ACCOUNTS

(2) The contract may contain a provision stating that the portion of assets of a separate account equal to the reserves and other contract liabilities with respect to the account shall not be charged with liabilities arising out of any other business the company may conduct. **If the company's domiciliary state requires separate accounts to be insulated, the contract shall include this provision.**

PSC PROPOSED RECOMMENDATION: The PSC agreed with the IIPRC Office Recommendation. The Committee is seeking public comments on this revision.

CLARIFICATION ITEMS

5-Year Review, Phases 2, 3 and 4 (Uniform Standards Effective 1/1/2008- 6/30/2009)

Including PSC Proposed Recommendations for Public Comment on 7/29/14

12. INDEX-LINKED PAYMENT ADJUSTMENT BENEFITS

APPLIES: Scope of the Index Linked Payment Adjustment Benefit Standards

CURRENT PROVISION:

Scope: These standards apply to index-linked annuity payment adjustment benefits that are built-in to individual immediate non-variable annuity contracts or are added to such contracts at issue by rider, amendment or endorsement. These standards apply to any adjustments to annuity payments that are triggered by a change in an index one or more times during the life of the contract.

As used in these standards, the following definition applies:

The term “benefit form” refers to index-linked annuity payment adjustments that are either built into the contract or added by rider, endorsement or amendment.

COMMENTS:

Industry Comment: An industry commenter requested the IIPRC expand the scope of its Indexed Linked Payment Adjustment Benefit Standard to include individual deferred paid-up non-variable annuities (DIAs) that are in the income payment phase. Currently, this Standard is limited to individual immediate non-variable annuities. The commenter believes that extending this Standard to both non-participating and participating DIAs in the payout phase is appropriate since once payments begin there is little difference between a DIA and an immediate non-variable annuity.

At the time this Standard was developed in 2008, carriers were not offering DIAs so it was understandable that the DIA product was not included. However, as consumer demand and competition in the annuity market continues to evolve, product innovation is an integral component of meeting that demand while providing consumer value and remaining competitive in the market. Having the ability to provide the indexed-linked payments under a DIA is likely a product iteration that may be offered to provide more choice to consumers in tailoring their income needs.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any concerns or issues raised by filers.

IIPRC Office Recommendation: The IIPRC Office does not have any concerns with the request. The Index Linked Payment Adjustment Benefit Standards were adopted in 2008 and the Individual Deferred Paid-Up Non-Variable Annuity Contract Standards (Longevity Standards) were not adopted until October of 2010, so it appears the longevity products were not being offered at the time this standard was initially adopted. IIPRC staff agrees with the commenter that there is little difference between immediate non-variable annuities

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and individual deferred paid-up non-variable annuities in the income payment phase. The Longevity Standards drew heavily from the individual immediate non-variable annuity standards and it would appear that the standards could accommodate this change with little or no change. The IIPRC Office recommends that the PSC review the Individual Deferred Paid-Up Non-Variable Annuity Contract Standards to see if any changes to those standards would be necessary if they expand the scope of the Index Linked Payment Adjustment Benefit Standards to include individual deferred paid-up non-variable annuities as follows:

Scope: These standards apply to index-linked annuity payment adjustment benefits that are built-in to individual immediate non-variable annuity contracts and to individual deferred paid-up non-variable annuity contracts (longevity annuities) in the income payment phase, where specified income payments commence on a specified date. These standards also apply if ~~or are~~ added to such contracts at issue by rider, amendment or endorsement. These standards apply to any adjustments to annuity payments that are triggered by a change in an index one or more times during the life of the contract.

July 22, 2014 IIPRC Office Update: Upon further review of the request to expand the scope, IIPRC staff believe this item should be listed as a Substantive change item rather than a clarification. A substantive change item would change or alter the meaning, application, or interpretation of the provision. Substantive change items would likely impact not only the Uniform Standards, but product filings submitted to the IIPRC. In this case, the IIPRC does not currently accept filings under the Indexed Linked Payment Adjustment Benefit Standard to include individual deferred paid-up non-variable annuities (DIAs) that are in the income payment phase. The proposed change would alter the application of the standard to also apply to DIA's.

Changing this to a substantive item would not impact the recommendation; however it should be noted that the item under consideration is more than a clarification and does allow for new products to be considered under the standard.

PSC PROPOSED RECOMMENDATION: The PSC agreed with the July 22nd IIPRC Office Update to change this item to a Substantive change in the report and recommendation to the Management Committee. The PSC is seeking more guidance related to the need for this change to accommodate products that are currently being filed state-by-state. Have states approved individual deferred paid-up non-variable annuity contracts that include index-linked payment adjustment benefits in the income payment phase? Can industry provide a sample product containing this benefit in generic format? The Committee is seeking public comments before finalizing this recommendation.