

Agenda Item 2. Review comments on the revised draft of the *Single Premium Group Fixed Annuity Contract Uniform Standards for Employer Groups* and prepare final recommendations.

Mary Mealer, Chair of the Product Standards Committee (PSC) noted that the PSC held a public call on March 19th to hear comments on the revisions to the draft of the *Single Premium Group Fixed Annuity Contract Uniform Standards for Employer Groups*, and that prior to the call, written comments were received from the Oregon Division of Financial Regulation. Members and interested parties had the opportunity to talk about these comments during the public call.

The Compact staff summarized the written comments. In reference to the request to make the Entire Contract provision a requirement rather than optional, the Compact staff noted that prior to the call Oklahoma sent a copy of their statute requiring such a provision in group annuity contracts. She also noted that a review of a half dozen single premium fixed group annuity contracts used for pension risk transfers indicated that each contract did contain a section outlining what was considered the contract. The Committee supported the idea of making this a required provision. Maryland also requested adding “if attached” to the first sentence of K(2) to make it clear that the application is attached to the contract when it is considered a part of the entire contract. Compact staff reviewed other group uniform standards to see if this would raise any consistency issues, but noted that the provision has different language for different product lines, so this change would not be problematic. Following discussion, the Committee agreed to amend the Entire Contract provision as follows.

K. ENTIRE CONTRACT

- (1) The contract ~~may~~ shall contain a provision regarding what constitutes the entire contract between the insurance company and the contractholder, which that the contract issued to the contractholder, may incorporate any riders, endorsements, -amendments- to the contract, schedules, exhibits and tables. No document except pension plan documents may be included by reference.
- (2) If an application is to be a part of the contract, the entire contract provision shall state that the application is a part of the contract if attached. All statements made by the applicant for the issuance of the contract shall, in the absence of fraud, be deemed representations and not warranties

The PSC reviewed the comments requesting the addition of an Incontestability provision. Comments from the public call that these types of contracts are with sophisticated buyers and the insurer is not in a position to contest the information disclosed since it comes from the employer or plan were noted. It was also observed that only the employer can determine eligibility because the employer knows the appropriate information on each eligible employee and relays this information to the insurance company. The contract is between the employer and the insurance company. When again asked if any state had requirements for incontestability, no state responded that this was the case. The PSC agreed no change was warranted.

It was noted that the last written comment regarding how the Compact handles changes in forms was procedural in nature and discussed with the state on the public call.

Ms. Mealer asked if there were any other comments or questions regarding the draft. John Robinson, Minnesota noted that under Bulletin 97-6, Minnesota does not allow the sale of guaranteed separate accounts. He stated that while the state could modify its position in the future, it is likely that they would still have some additional requirements. He asked if other states had similar concerns and questioned whether it may be preferable to have two sets of uniform standards – one for general account and one for separate account – in the event a state needed to opt out of the separate account standards.

John Carter, Texas, noted that at the time of the initial draft, Texas had observed that their department had concerns with separate accounts that are backed by the general account. In reviewing the current draft, he suggested that the language may need further change to make it clear that such accounts were not permitted under the standard. When questioned further about their processes, Texas and Minnesota both stated that their state specific requirements do not apply only to domestic insurance companies. Texas noted that they will permit separate accounts backed by the general account, but such permission is following a separate review by a department financial analyst and by Order of the Commissioner. There was discussion regarding whether these requirements were financial and reserving related state requirements that were outside the scope of the Compact's review and that insurance companies would still need to meet such state requirements as they would other non-product specific state laws and regulations.

Following further discussion, the Committee concluded that it would be unable to finalize a recommendation on this call and would need further time to discuss. As such, the PSC would not have a recommendation for the Management Committee for its April 5th in person meeting. Compact staff was asked to work with the impacted states so the matter could be further explored on the next call.

Agenda Item 4. Any other Matters.

The Chair stated that the next PSC call would be a member call on April 23rd to continue the agenda items not finalized on this call.