EMERGENCY RULE TO STAY THE IMMEDIATE EFFECTIVENESS OF
THE AMENDMENT TO NAIC MODEL 805 SECTION 4(B)(3) WHERE
APPLICABLE IN THE UNIFORM STANDARDS

The purpose of this emergency rule is to maintain the status quo with respect to the Uniform Standards which reference National Association of Insurance Commissioners (NAIC) Model 805 Standard Nonforfeiture Law for Individual Deferred Annuities by staying the immediate effectiveness of an amendment to Section 4(B)(3) of NAIC Model 805 currently pending adoption by the NAIC on December 9, 2020.

Pursuant to Section 109 of the Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission (“Rulemaking Rule”), the Management Committee, for the following good cause, finds that emergency circumstances exist such that the requirements of Sections 103 through 107 are contrary to the public interest in the process of approving this emergency rule.

1. On December 9, 2020, the plenary of the National Association of Insurance Commissioners will consider for adoption an amendment to NAIC Model 805 Standard Nonforfeiture Law for Individual Deferred Annuities, specifically Section 4(B)(3), to change the interest rate amount which the nonforfeiture interest rate cannot fall below from 1% to 0.15% for new business.

2. This amendment has been approved by the NAIC Life Actuarial (A) Task Force in October 2020 and the NAIC Life Insurance and Annuities (A) Committee in November 2020 and is likely to be adopted by the NAIC plenary.

3. The following adopted Uniform Standards include one or more references to compliance with NAIC Model 805, including in certain cases requirements for meeting the minimum nonforfeiture demonstration for compliance with Section 4(B)(3) of NAIC Model 805:
   • INDIVIDUAL DEFERRED NON-VARIABLE ANNUITY CONTRACT STANDARDS
   • INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACTS
   • ADDITIONAL STANDARDS FOR INDEX-LINKED CREDITING FEATURE FOR DEFERRED NON-VARIABLE ANNUITIES AND THE GENERAL ACCOUNT PORTION OF INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACT
   • ADDITIONAL STANDARDS FOR BONUS BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACT
   • ADDITIONAL STANDARDS FOR BONUS BENEFITS (for Individual Deferred Non-Variable Annuities)
   • ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE GENERAL ACCOUNT.

4. Upon adoption of the amendment to NAIC Model 805, the amendment would become immediately applicable for purposes of compliance under the above-listed Uniform Standards
in the absence of this emergency rule. In contrast, a Compacting State would likely need to amend the state’s annuity nonforfeiture statute through the legislative process for the amendment to Model 805 to become effective in the state outside of the Compact and Uniform Standards.

5. The Interstate Insurance Product Regulation Commission (“Commission”) is exploring the implications of the Colorado Supreme Court opinion in Amica v. Wertz with respect to circumstances when a state statute conflicts with a provision in the Uniform Standards, and the state statute, in certain circumstances, is more beneficial to the policyholder or beneficiary when compared to the provision of the Uniform Standards.

6. The Commission does not have sufficient time before the anticipated adoption of the amendment to NAIC Model 805 by the NAIC plenary to consider whether a conflict between the NAIC Model 805 with the amendment would present a conflict resulting in the Uniform Standards being less beneficial to the policyholder or beneficiary than under current state statute in certain circumstances.

7. The Commission wishes to stay the immediate effectiveness of the amendment to NAIC Model 805 for 120 days and to direct the Product Standards Committee review this matter to provide a recommendation on if, when, and how the amendment to Section 4(B)(3), if adopted by the NAIC, should become effective for purposes of the Uniform Standards.

For good cause as stated above, the Interstate Insurance Product Regulation Commission, by a majority vote pursuant to Section 109 of the Rulemaking Rule, hereby issues this emergency rule to stay the effectiveness of the amendment to Section 4(B)(3) of NAIC Model 805 Standard Nonforfeiture Law for Individual Deferred Annuities, currently pending adoption by the National Association of Insurance Commissioners at their plenary meeting on December 9, 2020. This stay shall apply to the following Uniform Standards where NAIC Model 805 is referenced:

- **INDIVIDUAL DEFERRED NON-VARIABLE ANNUITY CONTRACT STANDARDS**
- **INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACTS**
- **ADDITIONAL STANDARDS FOR INDEX-LINKED CREDITING FEATURE FOR DEFERRED NON-VARIABLE ANNUITIES AND THE GENERAL ACCOUNT PORTION OF INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACT**
- **ADDITIONAL STANDARDS FOR BONUS BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACT**
- **ADDITIONAL STANDARDS FOR BONUS BENEFITS (for Individual Deferred Non-Variable Annuities)**
- **ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE GENERAL ACCOUNT.**

The Commission requests the Product Standards Committee expeditiously review this matter and provide a recommendation on if, when and how the amendment to Section 4(B)(3) of NAIC Model 805 should become effective for purposes of the Uniform Standards.
Under this emergency rule, product filings subject to the above-referenced Uniform Standards shall continue to be reviewed for compliance with Model 805 without regard to the final action taken on the amendment to Section 4(B)(3) currently pending adoption by the NAIC on December 9, 2020.

This emergency rule shall be effective for 120 days unless extended by a majority vote of the Commission pursuant to Section 109 of the Rulemaking Rule.