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Senior Counsel  

January 14, 2021  

Interstate Insurance Product Regulation Commission (IIPRC)  
Product Standards Committee  
444 North Capitol Street, NW  
Hall of the States, Suite 700  
Washington, DC 20001-1509  
comments@insurancecompact.org.  

RE: Amendment to Model 805 and the Compact’s Uniform Standards  

To the Product Standards Committee:  

The American Council of Life Insurers (“ACLI”) appreciates this opportunity to comment on the NAIC’s adoption of an Amendment to Section 4(B)(3) of NAIC’s Standard Nonforfeiture Law for Individual Deferred Annuities (Model 805), which reduced the minimum nonforfeiture rate for these annuity products from 1.0% to 0.15%, and if and when the amendment should become effective for purposes of the Compact’s Uniform Standards.  

During its meeting on December 4, several days before the NAIC adopted the Amendment, the Compact adopted an Emergency Rule that imposed a 120-day stay of the automatic incorporation of the Model’s anticipated lower 0.15% rate. This action partially stemmed from the Colorado Supreme Court Opinion that was issued in Amica Life Insurance Company v. Wertz, which involved a state suicide exclusion that was more favorable to the beneficiary than the Uniform Standard. In addition, at the time of the adoption of the Emergency Rule, the Compact did not know the extent to which the automatic incorporation of the lower rate would present a potential conflict between its Uniform Standards and various state statutes.  

During the same meeting, the Compact discussed a Governance Assessment Report that was recently released by Squire Patton Boggs. One of its findings is that the Compact has implied Congressional consent as a result of Congress’ authorization of the District of Columbia to enter into the Compact in 2006. The Report then recommends that the Compact publicly recognize its implied Congressional consent in order to assert that its Uniform Standards supersede any conflicting state laws.  

We have no reason to refute the Report’s finding, which would appear to help alleviate the concerns that prompted the Compact to adopt the Emergency Rule. Accordingly, we request that the  

1 The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 95 percent of industry assets in the United States. Learn more at www.acli.com.
Amendment to Model 805 become effective for purposes of the Uniform Standards as soon as possible.

As a result of its implied Congressional consent, the Compact does not need to amend its Uniform Standards due to the action or inaction of the states with regard to the Amendment. That being said, as a matter of sound public policy, states should be encouraged to enact legislation or regulations to adopt the Amendment.

Furthermore, we urge the Compact to allow for the quick implementation of a change in the minimum nonforfeiture rate. We propose that companies be allowed to immediately submit filings with enough flexibility in their Statements of Variability to accommodate whatever minimum rate is being used by the Compact.

For example, the minimum rate could be bracketed with an explanation that the minimum rate may reflect the Standard Nonforfeiture Law for Individual Deferred Annuities as required by the Uniform Standards. With this language, companies are bound to comply with the minimum rate applied by the Compact, but also have flexibility to change that rate without refiling if and when the Compact allows implementation of the Amendment to Model 805. If the Compact requires additional safeguards around this approach, such as using a specific minimum rate in the actuarial memorandum as an example, we are happy to work together to find a solution.

Thanks again for this opportunity to comment. If you have any questions, feel free to contact me at waynemehlman@acli.com or 202-624-2135.

Sincerely,

Wayne A. Mehlman
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