



FILING INFORMATION NOTICE 2021-1

DATE: March 25, 2021

FROM: Karen Z. Schutter
Insurance Compact Executive Director

RE: **Filing Guidance for Implementation of ER-2 and Amendments for Annuity Minimum Nonforfeiture Rate to Follow State Law**

Purpose: Filing Information Notices explain steps or clarifications in the Interstate Insurance Product Regulation Commission’s process for filing and review of product filings under the applicable Uniform Standards. This Filing Information Notice only applies to the Uniform Standards referenced at the end of the document.

BACKGROUND:

Several annuity Uniform Standards require compliance with NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Non-Variable Annuities*. On December 9, 2020, the NAIC adopted an amendment to Model 805 changing the interest rate amount below which the nonforfeiture interest rate cannot fall from 1% to 0.15%. While the amendment to the model law would take immediate effect with respect to products filed with the Interstate Insurance Product Regulation Commission (“Commission”), the nonforfeiture interest rate floor generally codified in state law would require state action to change.

The Commission recognized this difference in the applicability of the Model 805 amendment among products filed with the Commission and its member states as a public policy and timing concern. On December 4, 2020, the Commission adopted Emergency Rule 1 (“ER-1”) to stay the immediate effectiveness, with respect to products filed with the Commission, of the amendment to Section 4(B)(3) of Model 805.

On March 23, 2021, the Commission received the recommendation of its Product Standards Committee (PSC) regarding proposed Uniform Standards amendments to address the timing and public policy issue. Concurrently, the Commission adopted Emergency Rule 2 (“ER-2”).

INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION (INSURANCE COMPACT)
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ER-2 is effective immediately and implements the proposed amendments recommended by the PSC while the Commission considers their adoption on a permanent basis through its required process for the adoption and promulgation of Uniform Standards. This Filing Information Notice outlines the key points and procedures associated with establishing compliance with the proposed Uniform Standards amendments.

The proposed amendments to the Uniform Standards recommended by the PSC specifically define nonforfeiture rate such that the minimum nonforfeiture rate follows state law in the state where the policy is delivered or issued for delivery.

FILING REQUIREMENTS:

1. No filing action is needed to comply with the amendments if the company wants to continue using 1% as the minimum nonforfeiture interest rate. In a state that lowers the minimum nonforfeiture rate to a lower percentage, using a higher minimum nonforfeiture rate than the minimum in state law would remain compliant.
2. If the company wants to lower the minimum nonforfeiture rate as permitted in those states where permitted by state law:
 - a. The product's specifications pages may include a bracketed range of values for the nonforfeiture rate. The explanation for this range on the Statement of Variability should state, "The nonforfeiture rate will be no lower than the rate prescribed in the law of the state where the policy is delivered or issued for delivery." Section 1C(5), Variability of Information, IIPRC-A-02-I.
 - i. Alternatively, the specifications page may identify a bracketed, specified value for the nonforfeiture rates. Under this alternative, the explanation for this variable item on the Statement of Variability should identify all possible specified values that may be used and state "The nonforfeiture rate will be no lower than the rate prescribed in the law of the state where the policy is delivered or issued for delivery."
 - b. The same statement, "The nonforfeiture rate will be no lower than the rate prescribed in the law of the state where the policy is delivered or issued for delivery," should be made in the Actuarial Memorandum for the product, for the description of the basis used in the establishment of the initial nonforfeiture rate and redetermined rates, if applicable. Section 1B(1)(d) and (e), Actuarial Memorandum Requirements, IIPRC-A-02-I.
 - c. The nonforfeiture demonstration that the values of the contract comply with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805, should continue to be calculated using the nonforfeiture interest rate as defined in Appendix A of the contract standards. As explained in the first Drafting Note of Appendix A, demonstrating compliance with the highest–minimum nonforfeiture rate of 3%

establishes compliance at any lower rate specified in the bracketed range of values for the nonforfeiture rate; therefore a demonstration using only the highest value of 3% need be provided. Section 1B(1)(f), Actuarial Memorandum Requirements, IIPRC-A-02-I.

- d. The actuarial certification as to the compliance with the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, model #805, should reflect that compliance with model #805 is as modified by Paragraph (1)(f) of §1B of these standards and including that the minimum nonforfeiture rate is consistent with the nonforfeiture interest rate as defined in these standards. Section 1B(1)(h), Actuarial Memorandum Requirements.
- e. The actuarial certification that the procedures used in the determination and, if applicable, redetermination of the contract nonforfeiture rate or rates applicable to any values under the contract are in compliance with the NAIC Annuity Nonforfeiture Model Regulation, model # 806, should reflect that references to NAIC Standard Nonforfeiture Law for Individual Deferred Annuities, Model #805, mean using the nonforfeiture interest rate as defined in these standards. Section 1B(1)(i), Actuarial Memorandum Requirements.

FILING PROCEDURES:

Compact filers should be aware of these filing procedures when filing or updating a product for the minimum nonforfeiture rate change:

1. **State Law:** A product filing should not identify the specific nonforfeiture rate prescribed in the law of any state included in the filing. The company is responsible for knowledge of and adherence to the minimum nonforfeiture interest rate in effect in the Compact member states where it does business.
2. **Previously Approved Products:** A product previously approved by the Compact may be updated for new issues only, by submitting a new filing using the Supporting Documentation Update filing type and including a revised, complete Statement of Variability and a revised, complete Actuarial Memorandum reflecting the proposed amendments as above. It is not necessary to re-file the specification pages or contract forms for review unless the filer wishes to update static form language or for the updated product to have a new form number. See *Filing Information Notice 2017-1* for more information about Supporting Documentation Update filings.
3. **Mix and Match:** Only products previously approved by the Compact may be updated through a Compact filing. Revisions affecting nonforfeiture values of state-approved products may not be filed with the Compact.
4. **Applicability of ER-2:** ER-2 is effective for all new Compact filings subject to the proposed amendments for 180 days, unless extended by a majority vote of the Commission pursuant to Section 109 of the *Rule for the Adoption, Amendment, and Repeal of Rules for the Interstate Insurance Product Regulation Commission*. The expiration of ER-2 is not

expected to affect product filings approved while ER-2 was in effect; i.e., products approved in accordance with ER-2 will remain approved.

APPLICABLE IIPRC FORMS:

None

EFFECTIVE DATE:

Immediately

CONTACT INFORMATION:

Questions regarding this Notice should be directed to:
Interstate Insurance product Regulation Commission
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Washington, DC 20001-1509
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E-mail: comments@insurancecompact.org

STATUTORY REFERENCES: Articles IV(3) and (6), and X(2) of the *Interstate Insurance Product Regulation Compact* as adopted by Compacting States.

OPERATING PROCEDURE REFERENCES: Sections 103 and 111 of the *Operating Procedure for the Filing and Approval of Product Filings (“Product Filing Rule”)*.

APPLICABLE UNIFORM STANDARDS:

- Individual Deferred Non-Variable Annuity Contract Standards (IIPRC-A-02-I)
- Individual Deferred Variable Annuity Contract Standards (IIPRC-A-03-I)
- Additional Standards for Bonus Benefits for Individual Deferred Non-Variable Annuity Contracts (IIPRC-A-02-I-BONUS)
- Additional Standards for Bonus Benefits for Individual Deferred Variable Annuity Contracts (IIPRC-A-03-I-BONUS)
- Additional Standards for Market Value Adjustment Provided through the General Account (IIPRC-A-07-I-2)
- Additional Standards for Index-Linked Crediting Feature for Deferred Non-Variable Annuities and the General Account Portion of Individual Variable Annuity Contracts (IIPRC-A-07-I-1)