Department of Commerce

Proposed Rules Relating to Universal Life Insurance

Rules as Proposed (all new material)

2747.0005 DEFINITIONS.

Subpart 1. **Definitions.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Cash surrender value.** "Cash surrender value" means the net cash surrender value plus any amounts outstanding as policy loans.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce of Minnesota.

Subp. 4. **Fixed premium universal life insurance policy.** "Fixed premium universal life insurance policy" means a universal life insurance policy other than a flexible premium universal life insurance policy.

Subp. 5. **Flexible premium universal life insurance policy.** "Flexible premium universal life insurance policy" means a universal life insurance policy that permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.

Subp. 6. **Interest-indexed universal life insurance policy.** "Interest-indexed universal life insurance policy" means any universal life insurance policy where the interest credits are linked to an external referent.

Subp. 7. **Net cash surrender value.** "Net cash surrender value" means the maximum amount payable to the policyowner upon surrender.

Subp. 8. **Policy value.** "Policy value" means the amount to which separately identified interest credits and mortality, expense, or other charges are made under the universal life insurance policy.

Subp. 9. **Universal life insurance policy.** "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

2747.0010 SCOPE.

This chapter encompasses individual universal life insurance policies except variable life insurance policies defined under part 2750.0100, subpart 14.

2747.0015 VALUATION.

Subpart 1. **Requirements.** The minimum valuation standard for universal life insurance policies shall be the commissioner's reserve valuation method, as described in this part for these policies, and the tables and interest rates specified in this part. The terminal reserve for the basic policy and any benefits or riders for which premiums are not paid separately as of any policy anniversary shall be equal to the net level premium reserves less (C) and less (D), where:

Reserves by the net level premium method shall be equal to ((A)-(B))r where (A), (B), and r are as defined below:

(A) is the present value of all future guaranteed benefits at the date of valuation.

(B) is the quantity

$$\frac{PVFB}{\ddot{a}_x}\ddot{a}_{x+t},$$

where PVFB is the present value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.

$\ddot{a}_x$ and $\ddot{a}_{x+t}$ are present values of an annuity of one per year payable on policy anniversaries beginning at ages (x) and (x) + (t), respectively, and continuing until the highest attained age at which a premium may be paid under the policy. (x) is defined as the issue age and (t) is defined as the duration of the policy.

The guaranteed maturity premium for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy on the latest maturity date, if any, permitted under the policy (otherwise at the highest age in the valuation mortality table), for an amount that is in accordance with the policy structure.[1] The guaranteed maturity premium is calculated at issue based on all policy guarantees at issue (excluding guarantees linked to an external referent). The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at issue provides the minimum policy guarantees.[2]

r is equal to one, unless the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, in which case r is the ratio of the policy value to the guaranteed maturity fund.

The guaranteed maturity fund at any duration is that amount which, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(C) is the quantity

$$((a) - (b)) \frac{\ddot{a}_{x+t}}{\ddot{a}_x} r,$$

where (a) - (b) is as described in Minnesota Statutes, section 61A.25, for the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer.

$\ddot{a}_{x+t}$ and $\ddot{a}_x$ are defined in (B) above.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes[3] in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The guaranteed maturity premium, the guaranteed maturity fund, and (B) above shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the descriptions above.

Future guaranteed benefits are determined by: (1) projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, and so forth, contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration that do not depend on the policy value.

Present values shall be determined using (i) an interest rate (or rates) specified by Minnesota Statutes, section 61A.25, for policies issued in the same year; (ii) the mortality rates specified by Minnesota Statutes, section 61A.25, for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose; and (iii) any other tables needed to value supplementary benefits provided by a rider that is being valued together with the policy.

[1]The maturity amount shall be the initial death benefit where the death benefit is level over the lifetime of the policy except for the existence of a minimum-death-benefit corridor, or, shall be the specified amount where the death benefit equals a specified amount plus the policy value or cash surrender value except for the existence of a minimum-death-benefit corridor.

[2]The guaranteed maturity premium for both flexible and fixed premium policies shall be adjusted for death benefit corridors provided by the policy. The guaranteed maturity premium may be less than the premium necessary to pay all charges. This can especially happen in the first year for

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policies with large first year expense charges.

[3]Structural changes are those changes that are separate from the automatic workings of the policy. The changes usually would be initiated by the policyowner and include changes in the guaranteed benefits, changes in the latest maturity date, or changes in allowable premium payment period.

Subp. 2. **Alternative minimum reserves.** If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for the policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the contract shall be the greater of item A or B.

A. The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

B. The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.

For universal life insurance reserves on a net level premium basis, the valuation net premium is

$$\frac{PVFB}{\ddot{a}_x}$$

and for reserves on a commissioner's reserve valuation method, the valuation net premium is

$$\frac{PVFB}{\ddot{a}_x} + \frac{(a) - (b)}{\ddot{a}_x}.$$

2747.0020 NONFORFEITURE.

Subpart 1. **Minimum cash surrender values for flexible premium universal life insurance policies.** Minimum cash surrender values for flexible premium universal life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of: (i) the benefit charges, (ii) the averaged administrative expense charges for the first policy year and any insurance-increase years, (iii) actual administrative expense charges for other years, (iv) initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively, (v) any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit) and (vi) any deductions made for partial withdrawals; all accumulations being at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

Interest on the premiums and on charges referred to in items (i) to (iv) above shall be accumulated from and to these dates as are consistent with how interest is credited in determining the policy value.

The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the commissioner may require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.[4]

The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year shall be those that would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates that the policy states will be imposed in policy years two through 20 in determining the policy value.

The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

The initial expense allowance shall be the allowance provided by Minnesota Statutes, section 61A.25, for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined above.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with the above and with Minnesota Statutes, section 61A.25, using the face amount and the latest maturity date permitted at that time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age (x) + (t) (where x is the issue age) shall be the unused initial expense allowance multiplied by:

$$\frac{\ddot{a}_{x+t}}{\ddot{a}_x}$$

where a_{x+t} and a_x are present values of an annuity of one per year payable on policy anniversaries beginning at ages x + t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with $\ddot{a}_x$ replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

[4]Because this product is still developing, it is recommended that benefit charges not be restricted and regulatory treatment of cash values be limited to that contained in this section for several reasons. First, further restrictions would limit the development of the product. Second, added restrictions would discourage insurers from reducing nonguaranteed current benefit charges because the reductions could require reduced future benefit charges that could be financially unsound for the insurer. Third, market pressures will encourage insurers to limit benefit charges.

Subp. 2. **Minimum cash surrender values for fixed premium universal life insurance policies.** For fixed premium universal life insurance policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to ((A) - (B) - (C) - (D)), where:

(A) is the present value of all future guaranteed benefits.

(B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in Minnesota Statutes, section 61A.25. If Minnesota Statutes, section 61A.25, is applicable, the nonforfeiture net level premium is equal to the quantity

$$\frac{PVFB}{\ddot{a}_x},$$

where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

$\ddot{a}_x$ is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(C) is the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. $\ddot{a}_x$ shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(D) is the sum of any quantities analogous to (B) which arise because of structural changes[3] in the policy.

Future guaranteed benefits are determined by (1) projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration that do not depend on the policy value.

Present values shall be determined using: (i) an interest rate (or rates) specified by Minnesota Statutes, section 61A.25, for policies issued in the same year and (ii) the mortality rates specified by Minnesota Statutes, section 61A.25, for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose.

[3]Structural changes are those changes that are separate from the automatic workings of the policy. The changes usually would be initiated by the policyowner and include changes in the guaranteed benefits, changes in the latest maturity date, or changes in allowable premium payment period.

Subp. 3. **Minimum paid-up nonforfeiture benefits.** If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policyowner as: (1) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value, or (2) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by Minnesota Statutes, section 61A.25. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit that provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

2747.0025 MANDATORY POLICY PROVISIONS.

Subpart 1. **Periodic disclosure to policyowner.** The policy shall provide that the policyowner will be sent, without charge, at least annually, a report that will serve to keep the policyowner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report. Specific requirements of this report are detailed in part 2747.0035.

Subp. 2. **Illustrative reports.** The policy shall provide for an illustrative report that will be sent to the policyowner upon request. Minimum requirements of the report are the same as those in part 2747.0030. The insurer may charge the policyowner a reasonable fee for providing the report.

Subp. 3. **Policy guarantees.** The policy shall provide guarantees of minimum interest credits and maximum mortality and expense charges. Values and data shown in the policy shall be based on guarantees. No figures based on nonguarantees shall be included in the policy.

Subp. 4. **Calculation of cash surrender values.** The policy shall contain at least a general description of the calculation of cash surrender values including the following information:

A. The guaranteed maximum expense charges and loads.

B. Any limitation on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than 12 months.

C. The guaranteed minimum rate or rates of interest.

D. The guaranteed maximum mortality charges.

E. Any other guaranteed charges.

F. Any surrender or partial withdrawal charges.

The following information must be summarized on the policy data page: the guaranteed maximum expense charges and loads; any limitations on the crediting of additional interest; any other guaranteed charges; and any surrender or partial surrender charges.

Subp. 5. **Changes in basic coverage.** If the policyowner has the right to change the basic coverage, any limitation on the amount or timing of the change shall be stated in the policy. If the policyowner has the right to increase the basic coverage, the policy shall state whether a new period of contestability or suicide applies to the additional coverage.

Subp. 6. **Grace period and lapse.** The policy shall provide for written notice to be sent to the policyowner's last known address at least 30 days before termination of coverage.

A flexible premium policy shall provide for a grace period of at least 30 days (or as required by state statute) after lapse. Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value first equals zero.

Subp. 7. **Misstatement of age or sex.** If there is a misstatement of age or sex in the policy, the amount of the death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex. The commissioner may approve other methods that are deemed satisfactory.

Subp. 8. **Maturity date.** If a policy provides for a maturity date, end date, or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

2747.0030 DISCLOSURE REQUIREMENTS.

In connection with any advertising, solicitation, negotiation, or procurement of a universal life insurance policy:

A. Any statement of policy cost factors or benefits shall contain:

(1) the corresponding guaranteed policy cost factors or benefits, clearly identified;

(2) a statement explaining the nonguaranteed nature of any current interest rates, charges, or other fees applied to the policy, including the insurer's rights to alter any of these factors; and

(3) any limitations on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.

B. Any illustration of the policy value shall be accompanied by the corresponding net cash surrender value.

C. Any statement regarding the crediting of a specific current interest rate shall also contain the frequency and timing by which the rate is determined.

D. If any statement refers to the policy being interest-indexed, the index shall be described. In addition, a description shall be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.

E. Any illustrated benefits based upon nonguaranteed interest, mortality, or expense factors shall be accompanied by a statement indicating that these benefits are not guaranteed.

F. If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted before the policy's maturity date, the fact shall be disclosed, including notice that coverage will terminate under such circumstances.

2747.0035 PERIODIC DISCLOSURE TO POLICYOWNER.

Subpart 1. **Requirements.** The policy shall provide that the policyowner will be sent, without charge, at least annually, a report that will serve to keep the policyowner advised of the status of the policy. The end of the current report period shall be not more than three months previous to the date of the mailing of the report. The report shall include the following:

A. The beginning and end of the current report period.

B. The policy value at the end of the previous report period and at the end of the current report period.

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C. The total amounts credited or debited to the policy value during the current report period, identifying each by type (for example, interest, mortality, expense, and riders).

D. The current death benefit at the end of the current report period on each life covered by the policy.

E. The net cash surrender value of the policy as of the end of the current report period.

F. The amount of outstanding loans, if any, as of the end of the current report period.

G. For fixed premium policies: If, assuming guaranteed interest, mortality, and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report.

H. For flexible premium policies: If, assuming guaranteed interest, mortality, and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

2747.0040 INTEREST-INDEXED UNIVERSAL LIFE INSURANCE POLICIES.

Subpart 1. **Initial filing requirements.** The following information shall be submitted in connection with any filing of interest-indexed universal life insurance policies (interest-indexed policies). The information received shall be treated confidentially to the extent permitted by law.

A. A description of how the interest credits are determined, including:

(1) a description of the index;

(2) the relationship between the value of the index and the actual interest rate to be credited;

(3) the frequency and timing of determining the interest rate; and

(4) the allocation of interest credits, if more

than one rate of interest applies to different portions of the policy value.

B. The insurer's investment policy, that includes a description of the following:

(1) how the insurer addressed the reinvestment risks;

(2) how the insurer plans to address the risk of capital loss on cash outflows;

(3) how the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities;

(4) how the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy;

(5) the amount and type of assets currently held for interest-indexed policies; and

(6) the amount and type of assets expected to be acquired in the future.

C. If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.

D. A description of any interest guarantee in addition to or in lieu of the index.

E. A description of any maximum premium limitations and the conditions under which they apply.

Subp. 2. **Additional filing requirements.** Annually, every insurer shall submit a statement of actuarial opinion by the insurer's actuary similar to the example contained in subpart 3.

Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.

Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (for example, any change in the information supplied in subpart 1) or if it would significantly change the amount or type of assets held for interest-indexed policies.

Subp. 3. **Statement of actuarial opinion for interest-indexed universal life insurance policies.**

I, ..., am ....
(name) (position or relationship
.... for the XYZ Life Insurance Company (The
to Insurer)
Insurer) in the state of ....
(State of Domicile of Insurer)

I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial opinions).

I have examined the interest-indexed universal life insurance policies of the Insurer in force as of December 31, 19XX, encompassing ..... number of policies and $........ of insurance in force.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the Insurer as they affect future insurance and investment cash flows under such policies and related assets. My examination included such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the Insurer and on projected investment cash flows as provided by ...., Chief Investment Officer of the Insurer.
5

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates.

In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the Insurer under these insurance policies.

....
Signature of Actuary

[5]If the actuary does not choose to rely on an investment officer for the projected investment cash flows, this statement should be modified to show the extent of the actuary's reliance.

If the actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force, an appropriate statement of reliance should be included here.