

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Actuarial Services
Preferred Mortality Tables for Use In Determining Minimum Reserve Liabilities

Proposed New Rules: N.J.A.C. 11:4-27A

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17B:19-8

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN-2007-330

Submit comments by January 4, 2008 to:

Robert J. Melillo, Chief
Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: 609-292-0896
Email: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

The Standard Valuation Law (N.J.S.A. 17B:19-8) sets the basis for the annual valuation of the reserve liabilities of life insurance policies. Pursuant to N.J.S.A. 17B:19-8a(i), the Commissioner may promulgate a mortality table adopted by the National Association of Insurance Commissioners (NAIC) for use in determining the minimum standard of valuation. On November 1, 2004, the Commissioner adopted N.J.A.C. 11:4-27 permitting the use of the 2001 Commissioner's Standard Ordinary (CSO) Table.

On September 10, 2006, the NAIC approved amendments to the 2001 CSO mortality tables that were originally approved in 2002 as a basis for valuation and nonforfeiture. The amendments created a new 2001 CSO Preferred Class Structure Mortality Table. At the same time, the NAIC adopted a model regulation permitting the use of preferred mortality tables in the determination of minimum reserve liabilities. The mortality table to be used for minimum reserve liabilities is determined as of the issue date of the life insurance policy. For policies issued after January 1, 2007, the model regulation permits insurers to use the new preferred table and to hold lower reserves based on the new class of preferred risks with expected low mortality. This proposed new subchapter reflects the NAIC model rule and amended mortality table, with certain exceptions as set forth below.

The proposed new subchapter includes the following sections:

N.J.A.C. 11:4-27A.1 generally introduces the new rules by setting forth their purpose and scope.

N.J.A.C. 11:4-27A.2 contains definitions of the terms used throughout the subchapter.

N.J.A.C. 11:4-27A.3 permits an insurer to substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007 subject to certain conditions, and advises insurers that the table is available on the NAIC's website. The rule explicitly explicitly requires an insurer electing to use the preferred mortality table for a plan of insurance in a particular calendar year of issue to use the table in all future calendar years of issue unless the Commissioner promulgates rules setting forth criteria for discontinuing use of the preferred mortality table. Although the NAIC model regulation does not contain a similar explicit provision imposing such a requirement, the Department believes that the provision is

consistent with the intention of the NAIC model regulation. Moreover, the prohibition will avoid the concerns that would ensue from an insurer unilaterally ceasing to use the preferred mortality table in the future after having elected to use it for a particular plan of insurance in a certain year of issue.

N.J.A.C. 11:4-27A.4 sets forth the conditions under which an insurer may substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Smoker or Nonsmoker Mortality Table. This section also requires insurers using the 2001 CSO Preferred Class Structure Table to file an annual statistical report with the Commissioner, in a form established by the Commissioner, showing mortality and additional information related to a mortality study. The Commissioner is also required to annually post on the Department's website the filing instructions and format for the report. This section differs somewhat from the NAIC model regulation. The NAIC model regulation permits these insurers to file the annual statistical report with the Commissioner, the NAIC or a statistical agent designated by the NAIC. The NAIC model regulation also states that the form of these reports is to be established by the Commissioner or the Commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC. If the Commissioner determines in the future that a change in either the filing procedure or format is necessary, the Department will promulgate regulations consistent with any such change. Further, unlike the NAIC model regulation, these rules specify what other information the Commissioner may need to be included in the statistical report.

N.J.A.C. 11:4-27A.5 indicates that the invalidity of any provision of the proposed subchapter does not affect the validity of the remaining provisions.

N.J.A.C. 11:4-27A.6 establishes the subchapter's effective date. At this time the Department intends to adopt the rules so as to have them go into effect as early as possible in 2008.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The direct impact of this proposed subchapter is on the life insurance industry, specifically on the minimum reserve liabilities that insurance companies must establish pursuant to law. The proposed subchapter may permit insurers to hold lower reserves based on the new class of preferred risks with expected low mortality, which may result in lower costs of doing business. These savings may be shared with those policyholders who are classified as preferred risks.

Economic Impact

Adoption of these rules would have a favorable impact on insurers and policyholders. The rules will result in lower reserve requirements for insurers electing to use the 2001 CSO Preferred Class Structure Mortality Table, and may result in lower premiums and charges for those policyholders included in the preferred class or in higher earnings for insurers. However, the optional use of these mortality tables may require the hiring of employees with additional expertise, or the use of consultants, in order to carry out the demonstration, certification and reporting requirements of the revised rules. These costs will be offsets to the savings from using the tables.

Federal Standards Statement

A Federal standards analysis is not required because the proposed new subchapter is not subject to any Federal requirements or standards. This proposed new subchapter is based on an NAIC Model.

Jobs Impact

These proposed new rules may result in the generation of jobs because, as discussed in the Economic Impact statement above, insurers may be required to hire employees or consultants with the necessary expertise to carry out the demonstration, certification and reporting requirements contained in these rules.

Agriculture Industry Impact

The Department does not anticipate that these proposed new rules will have any impact on the agriculture industry.

Regulatory Flexibility Analysis

These new rules directly impact life insurers, as discussed in the Summary above. The Department believe that this proposed new subchapter will apply to few, if any, small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because the affected insurers do not employ fewer than 100 full-time employees. Insurers are not required to use the tables allowed by the new rules. However, insurers that choose to use the new rules to obtain lower minimum reserves may need to hire actuarial consultants in order to obtain the demonstrations or certifications required by the rules.

The Department does not believe that different requirements based on insurer size would be appropriate or feasible. However, use of the 2001 CSO Preferred Class Structure Mortality Table by life insurers is discretionary and would result in a benefit to those insurers choosing to use the table. Any variations in the requirements regarding use of that table for small businesses would create an inconsistent basis for measuring the adequacy of the reserves of large and small companies. The Department's statutory obligation to ensure the financial solvency of all insurers, regardless of size, does not permit the use of any relaxed standard with respect to the adequacy of the reserves of small companies. Accordingly, the proposed new subchapter provides no differentiation in compliance requirements based on business size.

Smart Growth Impact

The proposed new subchapter will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

SUBCHAPTER 27A. PREFERRED MORTALITY TABLES FOR USE IN DETERMINING
MINIMUM RESERVE LIABILITIES

11:4-27A.1 Purpose and scope

(a) **The purpose of this subchapter is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard**

lives in determining minimum reserve liabilities in accordance with N.J.S.A. 17B:19-8, N.J.A.C. 11:4-27 and N.J.A.C. 11:4-32.

(b) This subchapter applies to all annual valuations of reserves for calendar years beginning on or after January 1, 2007.

11:4-27A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Commissioner” means the Commissioner of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“2001 CSO Mortality Table” means that mortality table adopted for use at N.J.A.C. 11:4-27 consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below. Unless the context indicates otherwise, the 2001 CSO Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table. It also includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. **“2001 CSO Mortality Table (F)”** means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table;
2. **“2001 CSO Mortality Table (M)”** means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table;
3. **“Smoking-Status-Composite mortality tables”** means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers; and
4. **“Smoker and nonsmoker mortality tables”** means mortality tables with separate rates of mortality for smokers and nonsmokers.

“2001 CSO Preferred Class Structure Mortality Table” means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September, 2006 national meeting and published in the Proceedings of the NAIC (3rd Quarter 2006), incorporated herein by reference. See www.naic.org and www.soa.org/research/individual-life/intl-2001-cso-preferred-class-structure-mortality-tables.aspx. Unless the context indicates otherwise, the **“2001 CSO Preferred Class Structure Mortality Table”** includes both the ultimate form of that table and the select and ultimate form of that table. It also includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

11:4-27A.3 2001 CSO Preferred Class Structure Mortality Table

(a) At the election of the insurer, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this subchapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. The 2001 CSO Preferred Class Structure Mortality Table is available on the NAIC's website at www.soa.org/research/individual-life/intl-2001-cso-preferred-class-structure-mortality-tables.aspx. The Department shall notify insurers of any changes to the 2001 CSO Preferred Class Structure Mortality Table by Bulletin.

(b) No such election as described in (a) above shall be made until the insurer demonstrates to the Commissioner that at least 20 percent of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this subchapter, shall be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of N.J.A.C. 11:4-27.

(c) If an insurer elects to use the 2001 CSO Preferred Class Structure Mortality Table for a plan of insurance in a particular calendar year of issue, the insurer shall use this table for that plan of insurance in all future calendar years of issue unless discontinuance is approved pursuant to rules promulgated by the Commissioner.

11:4-27A.4 Conditions

(a) For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class; and

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class; and

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.

(c) Unless the Commissioner finds that the use of it will have no material financial impact on the insurer, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the Commissioner statistical reports showing mortality and such other information as the Commissioner may specify as necessary for the administration of the provisions of this subchapter (that is, information related to a mortality study, including exposed lives and amounts of insurance, policy size, type of product, age and gender, underwriting criteria used to determine preferred mortality, and the number of people applying and rejected for preferred underwriting). The form of the reports shall be established by the Commissioner. The Commissioner shall annually post on the Department's website the instructions for and format of this report, specifying the information to be provided in the report and identifying the party with whom the report is to be filed and the address where the filing is to be made.

11:4-27A.5 Separability

If any provision of this subchapter or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected.

11:4-27A.6 Effective Date

This subchapter shall become effective on (the effective date of this subchapter.)

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