

*ADOPTED EMERGENCY RULE FOR CONSIDERATION BY THE INTERSTATE
INSURANCE PRODUCT REGULATION COMMISSION*

EMERGENCY RULE 2 (ER-2)

**EMERGENCY RULE TO IMPLEMENT PROPOSED AMENDMENTS
TO DEFINE THE ANNUITY NONFORFEITURE RATE
WHERE APPLICABLE IN THE UNIFORM STANDARDS**

The purpose of Emergency Rule 2 (ER-2) is to replace Emergency Rule 1 (ER-1) with a new emergency rule. ER-2 would implement the proposed amendments recommended by the Product Standards Committee to the annuity Uniform Standards for a period of up to 180 days while these amendments are in the rulemaking process. The proposed amendments would change the effectiveness in these Uniform Standards of the amendment to Section (4)(B) of the NAIC Model 805 – *Standard Nonforfeiture Law for Individual Deferred Annuities* to follow the minimum nonforfeiture law in state law as specified below while the Commission concurrently considers adoption of the proposed amendments on a permanent basis through its required process for the adoption and promulgation of Uniform Standards.

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 ER-2.

1. On December 4, 2020, the Commission adopted ER-1 to stay the immediate effectiveness, with respect to products filed with the Commission, of an amendment to NAIC Model 805 *Standard Nonforfeiture Law for Individual Deferred Non-Variable 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%. The amendment to NAIC Model 805 was adopted by the NAIC on December 9, 2020.
2. On March 23, 2021, the Product Standards Committee has made a recommendation to the Management Committee to change the immediate effectiveness of the Model 805 amendment in applicable Uniform Standards such that the NAIC Model 805 amendment will take effect for Compact product filings only if and when a specific state included in a product filing has enacted and made effective a minimum nonforfeiture rate other than 1.0%. Under this approach, the rate used in a Compact product filing would follow each included state’s law in effect at the time a product is issued and preclude a potential conflict between state statute and Uniform Standards.
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*

Emergency Rule-2

Adopted March 23, 2021

- *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. Specifically, the Product Standards Committee is proposing Uniform Standards amendments to the referenced Uniform Standards for the addition of a definition for “nonforfeiture rate” and to clarify throughout that the references to NAIC Model 805 are modified to use this definition.
 5. To comply with the proposed Uniform Standards amendments, a company would document compliance with 1.0% and 0.15% using variability in a single Compact filing, thus re-filing would not be necessary based on state adoptions of the NAIC Model 805 amendment. A company would provide a certification of compliance with the minimum nonforfeiture rate in the applicable state(s) where the product will be issued.
 6. ER-1 will expire on April 3, 2021. The Commission’s required process for adoption and promulgation of the proposed Uniform Standards amendments is likely to require at least six months before the Product Standards Committee recommendation for proposed Uniform Standards amendments could become effective for Compact product filings.
 7. In light of this timing concern and in recognition of the continuing need to address the NAIC Model 805 amendment while pursuing a broader solution to the type of conflict raised in *Amica Life Insurance Company v. Wertz*, the Commission wishes to avoid the expiration of ER-1, which would make the NAIC Model 805 amendment immediately effective, by replacing it with ER-2 to immediately implement the Product Standards Committee recommendation for proposed Uniform Standards amendments for a period of 180 days while the Commission concurrently considers adoption of the proposed amendments on a permanent basis through its required process for the adoption and promulgation of new and amended 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 2 to replace Emergency Rule 1 and immediately implement the amendments being proposed by the Product Standards Committee on March 23, 2021, 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*

Emergency Rule-2
Adopted March 23, 2021

- ***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.***

Under this Emergency Rule 2, product filings subject to the above-referenced Uniform Standards shall be reviewed for compliance with the Uniform Standards as proposed to be amended.

Upon the adoption of Emergency Rule 2, Emergency Rule 1 is replaced and shall have no further force and effect.

This Emergency Rule 2 shall be effective for 180 days unless extended by a majority vote of the Commission pursuant to Section 109 of the Rulemaking Rule.