



## MEMORANDUM

**TO:** IIPRC Management Committee

**FROM:** Product Standards Committee

**DATE:** November 18, 2015

**SUBJECT:** Recommendation Pursuant to Section 119 of the Rulemaking Rule for Changes and Clarifications to certain Uniform Standards adopted prior to January 1, 2010 (Phase 5) Subject to the Five-Year Review Process

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The Product Standards Committee (“PSC”) of the Interstate Insurance Product Regulation Commission (“IIPRC”) is charged with reviewing, drafting and recommending proposed drafts of Uniform Standards for consideration and adoption by the Management Committee. In carrying out its charge, the PSC has conducted a review of certain Uniform Standards adopted on or before June 30, 2010 and is recommending amendments to certain provisions within these Uniform Standards.

The PSC presents this recommendation pursuant to §119 of its Rule for the Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission (“Rulemaking Rule”) which requires the Commission to substantially review its rules, including Uniform Standards, every five years. The PSC performed the review of these Uniform Standards in accordance with the Procedures for Implementing §119 of the Rulemaking Rule as adopted by the Management Committee on March 2, 2012 (“Procedures”).

The Notice of Five-Year Review of Uniform Standards Adopted on or before June 30, 2010 was issued on January 5, 2015. Comments were submitted by the Industry Advisory Committee and a filing company.

Pursuant to the Procedures, the IIPRC Office presented a report and recommendation to the Product Standards Committee on July 29, 2015. The IIPRC Office Report and Recommendation provided a detailed description of the submitted comments and suggested changes as well as changes or amendments proposed by the IIPRC Office based on these comments and internal challenges faced in applying or implementing the Uniform Standards. The PSC requested public written comments on the IIPRC Office Report and Recommendation and during its consideration process held two public conference calls to receive comments on the report and the PSC’s recommendations.

The revised IIPRC Office Report and Recommendation is divided into four parts: 1) Substantive Changes (proposed amendments that would change or alter the meaning, application or interpretation of the provision); 2) Clarifications Changes (amendments to clarify the original or existing meaning, application, and/or intent of a provision); 3.) Conforming Amendments (amendments to existing Uniform Standards where the substantive provisions of the amendments are included in other adopted Uniform Standards and the amendments will have the same substantive effect on the application of the existing Uniform Standards as it does on in the other adopted Uniform Standard. As part of the Five Year Review process, the applicable changes adopted by the

Commission in prior phases of the Five Year Review process will be presented as conforming amendments to standards subject to Phase 5) Technical Changes (formatting, typographical, and/or drafting corrections). As required by the Procedures, the PSC's recommendation to the Management Committee includes a summary of recommended changes and an explanation of the change in circumstances or underlying assumptions since the rule was last adopted, amended or reviewed, as well as a comment raised but not recommended by the committee with the reasons for not recommending this item. Since the conforming amendments were already summarized in prior phases of the Five Year Review and since the technical changes are format and typographical corrections, these items are not detailed on the chart. The Summary of Five-Year Review Comments and PSC Recommendations for Uniform Standards in Phase 5 accompany this Transmittal Memo.

As was previously recommended in Phases One through Four, the PSC recommends that the proposed amendments apply only to new filings received after the effective date of the amendments. It is not necessary to resubmit previously approved forms to comply with these amendments, or to suspend use of previously approved forms that do not comply with these amendments.

This Summary will be posted to the Rulemaking Docket of the IIPRC website – [www.insurancecompact.org](http://www.insurancecompact.org) – and will have links to the applicable Uniform Standards showing the proposed five-year review changes in redlined format. The PSC is available to respond to any questions to assist the Management Committee during its rulemaking process.

**Summary of Five-Year Review Comments and PSC Recommendations  
For Uniform Standards in Phase 5 of the Five Year Review  
November 18, 2015**

	Uniform Standards Provision	5-Year Review Comment	PSC Recommendation
<b>RECOMMENDED SUBSTANTIVE CHANGE ITEMS</b>			
1.	<p>ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE GENERAL ACCOUNT SCOPE Appendix B <i>(Cross-Reference to IIPRC Office Report – Substantive Change Item #1)</i></p>	<p><i>Industry Comment:</i> The Industry Advisory Committee (IAC) requested that the IIPRC remove the 7%/7-year limitation of withdrawal charges for general account, non-Multi Year Guarantee annuities. The IAC does not believe there is any regulatory or consumer protection interest served by having additional restrictions on the non-forfeiture value of general account annuities with a market value adjustment that are not already addressed in the existing Standard Non-Forfeiture Law for Individual Deferred Annuities. They noted that the current requirement is counter-productive since it prevents useful, consumer-centric products from being submitted and approved through the Compact. The current requirement drives companies back to state direct filings, noting that most states accept and approve general account MVA annuities with surrender charge patterns that comply with the Standard Nonforfeiture Law.</p>	<p>The Product Standards Committee (PSC) referred this request to the Actuarial Working Group (AWG), for review and recommendation. The AWG recommended, and the PSC agreed to remove the separate requirements for other than Multi-Year Interest Rate Guarantee Annuities (MYGA) since general account non-MYGA MVA products without the limitation on surrender charges are being approved by and sold in the majority of the member states. Some companies appear to be using the IIPRC approved forms only in those few states that don't approve general account non-MYGA MVA forms. Even with the elimination of the limitations, nonforfeiture and cash surrender values would still be subject to the retrospective and prospective test minimums, and because the IIPRC standard requires a maturity date equal to the later of age 70 or 10 years for purposes of the prospective test, surrender charges are limited to approximately 10% grading down over 10 years for most issue ages.</p> <p>The AWG and PSC also recommend deleting the existing actuarial opinion and adding an actuarial certification similar to the certification required under the IIPRC standard for Bonus Benefit For Individual Deferred Variable Annuity Contracts. Such a certification provides some assurance that removing the 7%/7 year surrender charge limitation will benefit consumers.</p>

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2.	<p>Termination provision of the ADDITIONAL STANDARDS FOR BONUS BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITY CONTRACTS <i>(Cross-Reference to IIPRC Office Report – Substantive Change Item # 2)</i></p>	<p>The IIPRC staff notes that they issue objections and receive questions from filers regarding the mandatory requirement for a termination provision for the benefit at the request of the owner. The bonus benefit is a consumer benefit that typically does not have a separate, identified premium. Companies always include the termination provision “upon termination of the contract” and “upon nonpayment of any identifiable charge,” so the added provision does not seem necessary.</p>	<p>The PSC agreed with the IIPRC staff recommendation to delete the required termination provision for termination of the benefit at the owner’s request since other provisions within the contract would have the same effect.</p>
3.	<p>Benefit triggers for the ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITIES and ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED NONVARIABLE ANNUITIES <i>(Cross-Reference to IIPRC Office Report – Substantive Change Item # 4)</i></p>	<p>The IAC suggests that these standards require substantial revisions to address additional benefit triggers and increased withdrawal benefits based on certain benefit triggers. The IAC noted that when these standards were first developed and adopted by the IIPRC, the industry was primarily offering traditional GLWB, GMAB and GMIB rider benefits. In recent years, GLWB riders with enhanced features such as increased payments upon confinement in a nursing home, terminal illness or inability to perform certain activities of daily living have become widely available in the marketplace. With a majority of states approving these enhanced GLB rider benefits on annuity products and a growing number of companies offering these riders, the IAC recommends that the IIPRC update the standards to accommodate the benefit triggers.</p>	<p>The PSC, working with suggestions provided by the IAC and draft revisions prepared by the IIPRC office staff using the event triggers and other provisions in the adopted Additional Standards for Waiver of Surrender Charges as a model, recommends revisions to these Uniform Standards to provide for enhanced benefits if the covered person experiences one of the qualifying events consistent with the Additional Standards for Waiver of Surrender Charges.</p>
<b>RECOMMENDED CLARIFICATION ITEMS</b>			
1.	<p>Scope of the ADDITIONAL STANDARDS FOR BONUS BENEFITS FOR INDIVIDUAL</p>	<p><i>IIPRC Office Comments/Observations:</i> The IIPRC Office noted that it may be helpful to filers and avoid questions or objections if the scope defines or</p>	<p>The PSC recommends adding a phrase to define non-level interest rate guarantees as interest rate guarantees that vary over time.</p>

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	DEFERRED VARIABLE ANNUITY CONTRACTS <i>(Cross-Reference to IIPRC Office Report – Clarification Item #1)</i>	explains the term “non-level interest rate guarantees.”	
2.	ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE GENERAL ACCOUNT – Actuarial Requirements and Appendix B <i>(Cross-Reference to IIPRC Office Report – Clarification Item #2)</i>	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office issues objections and responds to questions raised by filers about limitations on surrender charges for products that are not multi-year interest rate guarantee annuities. It would be helpful to filers and eliminate confusion if the information was provided within the standard itself instead of only in Appendix B	Because the PSC is recommending that there be no separate surrender charge limitations for non-MYGA MVA products, the PSC does not recommend changes to the Scope of this Uniform Standard. The PSC recommends clarifying the Actuarial Memorandum requirements to include a demonstration that the values of the contract comply with the nonforfeiture requirements including Appendix A-1 and A-2 of the Individual Deferred Non-Variable Annuity Contract Standards and that modifications to the demonstrations are found in Appendix B.
3.	Definitions in the ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE GENERAL ACCOUNT and the ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH A SEPARATE ACCOUNT <i>(Cross-Reference to IIPRC Office Report – Clarification Item #3)</i>	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office notes that it issues objections to filers who were under the impression that indexed linked annuities qualify as Multi-Year Interest Rate Guarantee Annuities because the formula and parameters for the index are guaranteed. The IIPRC office does not consider indexed linked annuities to qualify as Multi-Year Interest Rate Guarantee Annuities and believes it would be helpful to clarify this in the definition of Multi-Year Interest Rate Guarantee Annuity.	The PSC recommends adding a sentence to the definition of Multi-Year Interest Rate Guarantee Annuity stating that an indexed linked annuity is not a Multi-Year Interest Rate Guarantee Annuity.
4.	§3 MVA Feature Provision item C (8) for ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH THE	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office notes that this provision only applies if the market value is a function of the company's current rate. This is an area of confusion with some filers, resulting in additional communications and potential	The PSC recommends adding clarification to the lead sentence of item 8 stating it is for multi-year interest rate guarantee annuities based on current rate.

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	GENERAL ACCOUNT and ADDITIONAL STANDARDS FOR MARKET VALUE ADJUSTMENT FEATURE PROVIDED THROUGH A SEPARATE ACCOUNT <i>(Cross-Reference to IIPRC Office Report – Clarification Item #4)</i>	delays.	
5.	§2 C. (1) of the ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITIES – Calculation of bonus benefit base <i>(Cross-Reference to IIPRC Office Report – Clarification Item #5)</i>	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office notes that if the Guaranteed Living Benefit is added after contract issue, the account values will fluctuate based on investment experience and most likely will not be equal to the initial premium payment. In such situations, IIPRC staff interprets the provision to be that the initial benefit base is equal to the contract/account value.	The PSC recommends clarifying the provision to state that the value of the guaranteed benefit base for a GLB benefit that is included at contract issue is the initial premium payment, but for a GLB benefit added after contract issue it is equal to the account value, increased by any additional premium.
6.	Scope of the ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE ANNUITIES and ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED NONVARIABLE ANNUITIES <i>(Cross-Reference to IIPRC Office Report – Clarification Item #6)</i>	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office recommended that the PSC consider amending the Scope of the Guaranteed Living Benefits Uniform Standards to clarify that if the benefit or withdrawal benefit is contingent upon receipt of long-term care services or supports, these standards shall not apply and such benefit will be subject to the IIPRC standards for long-term care insurance. This language would provide consistency with Filing Information Notice 2013-1. The IIPRC office suggests language similar to that found in the Scope of the Additional Standards for Accelerated Death Benefits.	The PSC recommends adding a paragraph to the end of the Scope of these Uniform Standards specifying that products subject to these standards shall not be described as long-term care insurance or as providing long-term care benefits. If the benefit or withdrawal benefit is contingent on the covered person’s receipt of long-term care services or supports, the product must comply with the IIPRC’s standards for individual long-term care insurance.
7.	Actuarial Memorandum requirements for ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED VARIABLE	<i>Industry Comment:</i> An Industry commenter noted it would be helpful if these Uniform Standards were updated to include the information found in Filing Information Notice (FIN) 2012-2 that for product filing that contains guaranteed living benefits as part	The PSC recommends adding a drafting note similar to the one found in the Additional Standards for Incidental Guaranteed Minimum Death Benefits for Individual Deferred Non-Variable Annuities stating that a charge for a GLB which is part of a fixed

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	ANNUITIES and ADDITIONAL STANDARDS FOR GUARANTEED LIVING BENEFITS FOR INDIVIDUAL DEFERRED NONVARIABLE ANNUITIES <i>(Cross-Reference to IIPRC Office Report – Clarification Item #7)</i>	of a non-variable annuity contract, the actuarial memorandum should clearly outline how the rider charges impact the base policy values and nonforfeiture compliance of the combined policy and additional benefit feature. The commenter also noted that the requirements also apply to variable annuities with a fixed account, and it would help avoid objections if this information was noted in the Uniform Standards.	account in a variable annuity must satisfy minimum nonforfeiture requirements of the relevant Core Standards, and noting that minimum value requirements of Model # 805 do not allow for any reductions in minimum value for the rider charges.
8.	Appendix A of the Additional Standards for Market Value Adjustment Feature Provided Through the General Account <i>(Cross-Reference to IIPRC Office Report – Clarification Item #8)</i>	<i>IIPRC Office Comments/Observations:</i> The IIPRC Office has noted questions about the application of this Sample Acceptable MVA Formula and how it relates to the provisions within §3.C.(6). Since the Actuarial Working Group was reviewing this Uniform Standard, it would be helpful to clarify the description of “J” for an MVA based on an index in Appendix A.	The PSC recommends that Appendix A reference the examples found in section §3.C.(6) of the standard and clarify the description of “J” for an MVA based on an index.
<b>ITEM RAISED BUT NOT RECOMMENDED</b>			
1.	<i>(Cross-Reference to IIPRC Office Report – Substantive Item # 3)</i>	<i>Industry Comment:</i> An Industry commenter noted that the current Guaranteed Living Benefits Standards require benefit bases to initially have a floor amount of the premium paid and only in limited circumstances could the benefit bases be dropped below premiums. The commenter suggested that if the rider is transparent about when the benefit base could be less than premium, it should be permissible. The commenter provided an example that an 80% Guaranteed Minimum Accumulation Benefit rider would not be permitted under existing standards, but such a rider would	The PSC reviewed and discussed the request to change the value of the guaranteed benefit base from the initial premium to a percentage of the initial premium, and considered comments received by the Consumer Advisory Committee questioning if the change would provide a consumer benefit and how the consumer would recognize any potential benefit. The PSC is not recommending this change. Members expressed concerns that the suggested change contained no minimum percentage, nor any parameters to protect the consumer. They noted that there did not appear to be a market need for such a

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		allow consumers the choice to receive a lesser guarantee at what would likely be a lower cost or other benefit. The commenter suggested amending §2 B. (1) to allow the bonus benefit base to be a percentage of the initial premium payment.	change and expressed concerns about amending the standard for potential and not fully vetted product innovation.