

DATE: June 8, 2009

TO: IIPRC Management Committee

FROM: IIPRC Industry Advisory Committee

SUBJECT: Proposed Amendments to the Operating Procedure for the Filing and Approval of Product Filings

Individual Life Return of Premium Standards

The Industry Advisory Committee applauds the IIPRC for taking the steps to eliminate the 2 year deadline for the ability of companies to mix and match IIPRC approved forms with Compacting State approved forms. We seek confirmation that the elimination of the 2 year deadline will also apply to the “reverse mix and match” process whereby companies file forms with the Compacting States (IIPRC does not have operational product standards) and request to mix and match these with forms approved by the IIPRC.

The 2 year deadline has been a major deterrent for some of the companies that have not yet filed with the IIPRC, and as soon as news of this amendment was publicized, some companies registered to file with the IIPRC and are developing products for filing with the IIPRC. So we believe that the amendment is a win-win for all.

Section 110, Item (a)(4), Pages 7-8

We note that reference to Appendix A was not eliminated, and we have serious concerns with the continued reliance on the Appendix A to determine mix and match availability.

It is important to note that several years ago when industry was asked at a Landsdowne, Virginia meeting to identify the universe of all products/forms that would be needed to represent the eight lines of business for which the IIPRC had jurisdiction (individual and group life, annuity, disability and long term care), industry presented numerous items that it believed should be included since these would be the products/forms that were representative of current company portfolios and companies would be looking to file these product/forms with the IIPRC. Regulators became alarmed by the size of suggested Appendix A entries and cuts were made. There were never any judgments made about mix and match compatibility of the products/forms that made the cut and those that did not.

Industry objected to the cuts, and to accommodate those products/forms which did not make the Appendix A cut, a Future Considerations List was created, but never published on the IIPRC website. Industry immediately expressed concern about whether or not items on the List would be eligible for mix and match, and we were repeatedly assured by regulators that the mix and match decision would not be based solely on what list a product/form came from.

To date, several standards, such as the individual life ***Return of Premium, Index-Linked Crediting Benefit Features for Individual Adjustable Life Policies, Underwriting Exclusions for Disability, Annuity Contract Change Form***, etc., originated on the Future Considerations List.

For the ***Return of Premium and Index-Linked Crediting Benefit Features for Individual Adjustable Life Policies*** standards, none of the NAIC Interstate Compact Working Group, IIPRC Product Standards Committee or IIPRC Management Committee reviews or discussions addressed mix and match. One Compacting State raised the issue for Return of Premium at a Management Committee meeting during the 90 day seasoning period (we will address the defense of mix and match for this standard later on in this commentary).

Mix and match issues for the ***Individual Annuity Contract Change Form*** were never discussed. When the standard became operational, IIPRC staff placed it in the non-mix and match category on the website because it was not listed in Appendix A (the website has since been corrected). Doing so made even less sense when the Individual Life Policy Change Form was included in the website section subject to mix and match, and the standards are almost identical and serve the same purpose.

The standards for the ***Underwriting Exclusions for Disability Insurance Policies*** are about to be handed over to the Product Standards Committee. Mix and match issues were not brought up during the NAIC Interstate Compact Working Group discussions. These standards are similar to the standards for the Underwriting Exclusions for Life Insurance Policies, which are subject to mix and match, so one would expect that the Disability standards would also be subject to mix and match.

For the record, the only product standard that was ever subject to a mix and match discussion was the CSO Mortality Table Change Form which originated on the Future Considerations List.

To the best of our knowledge (public meetings), the mix and match compatibility issues are not a scheduled routine discussion item at Product Standards Committee meetings, nor do recommendations for exposure for comments or adoption ever mention the mix and match issues. [We have recommended that the Product Standards Committee include this as a discussion routine, as well as address mix and match recommendations when standards are sent to the Management Committee and then to the Commission.]

We believe that the Appendix A never really had any meaningful significance for the adoption of product/form standards, and accordingly it should be eliminated from item (4). The IIPRC website lists all the standards that are operational. The Life and Annuity priority lists which we have provided to IIPRC staff on several occasions shows the standards in the development pipeline. Priority lists for Disability and Long Term Care standards could easily be developed.

To further underscore the insignificance of Appendix A, it should be noted that the Appendix has not been updated to reflect the standards that have been adopted or those that are in the development pipeline. We have attached a redlined version of the latest Appendix A and it speaks for itself. Our redline version does not reorder the standards to be the same as the IIPRC website, which would be necessary in order to avoid confusion. In addition, we had previously made recommendations for title changes to the standards on the website, which we have included in the edits to Appendix A.

As we have recommended, the issue as to whether or not a product/form standard is eligible for mix and match use should be based on the merits of each standard, and not what list it came from. As we have stated above, the NAIC and the IIPRC product/form standard development and adoption processes have for the most part, with one exception, ignored the source of these, and we should continue to do so.

Mix and Match Issues for the Individual Life Return of Premium Standards (ROP)

During the April 27th meeting of the Management Committee, a Compacting State advised that it would not “be comfortable” if the ROP standard would be available for mix and match use. This was never previously discussed, no were specifics given. The standards were at the time in their 90 day seasoning period. As a compromise, it was suggested that the IIPRC address this issue within the Appendix A issues discussion.

Unlike all other standards, the ROP standards are unique in that they require compliance with the standard nonforfeiture model law as interpreted by Actuarial Guideline XL, which says, “If the endowment benefit is added by rider to a policy, then for minimum cash value determination purposes the base policy and the endowment benefit are to be treated as integrated.” This means that for each policy with which the benefit will be used, whether approved by the IIPRC or Compacting States, that the company must demonstrate compliance with nonforfeiture requirements for the combination of the base policy and rider. If the IIPRC requires such a demonstration, there is no reason why the benefit could not be used with Compacting State approved forms.

Compacting States that have specific concerns have not identified these, so it is difficult to respond to any other concerns.

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