STATE OF NEW YORK
INSURANCE DEPARTMENT
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Application of New York Comp. Codes R. & Reg. (NYCRR), tit. 11, Part 97 (Regulation128) to Variable Annuities with Guaranteed Living Benefits (VAGLBs) & Pension Products

The application of Regulation 128 to VAGLBs is stated in the Department web posting dated October 31, 2007 (and includes the requirement of stand-alone asset adequacy analysis).

However, the company has the option, subject to the Superintendent's approval, to apply the methodology illustrated below (effective through 9/30/2009 statements) if, per § 97.5(n) of Regulation 128, it demonstrates in the memorandum associated with its Regulation 128 Actuarial Opinion that it has provided other appropriate and equally effective safeguards against the risks and uncertainties addressed in § 97.5(n) of Regulation 128. The company may also apply a different methodology if the company can demonstrate to the satisfaction of the Superintendent that it has provided other appropriate and equally effective safeguards against the risks and uncertainties addressed in Regulation 128.

Also, the company has the option, subject to the Superintendent's approval, to apply the methodology illustrated at the end of this document (effective through 9/30/2009 statements and to asset maintenance requirement testing performed through December 30, 2009) to pension products if it demonstrates in the memorandum associated with its Regulation 128 Actuarial Opinion that it has provided other appropriate and equally effective safeguards against the risks and uncertainties addressed in § 97.5(n) of Regulation 128. The company may also apply a different methodology if the company can demonstrate to the satisfaction of the Superintendent that it has provided other appropriate and equally effective safeguards against the risks and uncertainties addressed in Regulation 128.

The request for prior approval can be made to Fred Andersen (Supervising Actuary – Life) by January 30, 2009.

Variable Annuities with Guaranteed Living Benefits

An actuarial opinion and memorandum as described by Regulation 128 should be submitted for all such business including synthetic Guaranteed Investment Contracts (GICs) and Variable Annuities with Guaranteed Living Benefits (VAGLBs). According to § 99.9(e) of

11 NYCRR Pt. 99 (Regulation 151), which contains special considerations for valuing reserves for separate account contracts and single premium policies, VAGLBs are subject to Regulation 128. Accordingly, attached is an illustration on computing reserves for VAGLBs. Your methodology for calculating VAGLB reserves and approval notice from the Department for the methodology should be documented in the Regulation 128 memorandum.

<u>Illustration – VAGLB's – Potential modified methodology for certain pre-approved cases</u>

Part A

On a contract by contract basis, the application of Regulation 128 to VAGLB formula reserve may result in the following calculation:

1. Discount the VAGLB benefit using Regulation 128 spot rates and valuation mortality rates.
   - Assume 15% annual utilization of guaranteed minimum income benefits, 75% utilization of guaranteed minimum withdrawal benefits, and 100% utilization of GMAB's. For all other guarantees, other approaches to modeling utilization may be acceptable provided 100% utilization is assumed at the end of election period. Refer to Item #1 of the Additional Considerations section of this document.
   - For all guaranteed living benefits except guaranteed minimum accumulation benefits (GMAB's), an annual lapse rate of 2% may be assumed. For GMAB's, zero lapses shall be assumed.
   - For applicable products, the company shall have the option of using the applicable LIBOR swap rate instead of 104.5% of the applicable Treasury spot rate for discounting.

2. Discount future required VAGLB charges (fees) using the Regulation 128 spot rates and valuation mortality rates. As noted in Actuarial Guideline 39 (AG 39), in the event that there are no explicit VAGLB charges, a charge should be imputed.

3. Subtract the present value on the valuation date of the VAGLB charges (fees) from the present value on the valuation date of the VAGLB benefits.

4. Calculate the amount of required assets, using the Regulation 128 percentage haircuts, needed to support the net VAGLB benefit calculated in step 3.
   - Note: Based on Section 97.5 of Regulation 128 and AVR requirements, assume a 13.5% drop in the market value of assets for stock funds, a 0% drop for bond funds, and an 8.1% drop for balanced funds (assuming a 60/40 equity/bond mix and adjusting the percentage in accordance with the mix).
   - Note: No asset shaves are required for the fixed account portions of variable contracts.

5. Compare the required assets (step 4) to the actual assets on the valuation date.
   - If the actual assets are equal to, or greater than the required assets, the Regulation 128 related VAGLB floor reserve is zero.
   - If the actual assets are less than the required assets on the valuation date, the Regulation 128 related VAGLB floor reserve is the difference.

Part B

6. On a contract by contract basis, calculate the AG 39 cumulative charges. Sum these charges. Then, calculate the reserve increase (if greater than zero) required by the AG 39 stand-alone asset adequacy analysis.

7. The required standalone VAGLB reserve is the greater of the aggregate AG 39 reserves (step 6) and the aggregate Regulation 128 related VAGLB floor reserve (Step 5).

Numeric Example – Part A (Part B not shown)

The example below is for illustrative purposes only. Certain product design features may require modification of the techniques used to compute reserves, but all methodologies should be consistent with the general approach outlined herewithin.

Assumptions:
Account value on valuation date: $100,000
GMAB matures 3 years after the valuation date: $100,000
VAGLB annual charge: 0.50%
Three Year Treasury Spot Rate: 3% {note the LIBOR swap rate would be used at the option of the company}
Annual Mortality Rate: 1%
Annual Lapse Rate: 0% {would be 2% for other VAGLB's}
Utilization rate: 100% {would be as stated above for other VAGLB's}

Step 1 - Discount the VAGLB benefit using Regulation 128 spot rates and valuation mortality rates.

PV VAGLB = 100,000 * (.99)^3 / (1.03)^3 = 88,796

Step 2 - Discount future required VAGLB charges (fees) using the Regulation 128 spot rates and valuation mortality rates.

PV VAGLB Charges = 100,000*.005*(1 + 1*(.99)/1.03 + 1 * (.99^2) * (1/1.03)^2) = 1,443

Step 3 - Subtract the present value on the valuation date of the VAGLB charges (fees) from the present value on the valuation date of the VAGLB benefits.

PV Net VAGLB Benefit = 88,796 – 1,443 = 87,353

Step 4 - Calculate the amount of required assets, using the Regulation 128 percentage haircuts, needed to support the net VAGLB benefit calculated in step 3.

Amount of Required Assets needed = 87,353/.8 = 109,191 {Assumes 20% haircut; for 13.5% haircut, denominator of .865 would be used}

Step 5 - Compare the required assets (step 4) to the actual assets on the valuation date.

VAGLB Reserves = 109,191 – 100,000 = 9,191

Additional Considerations

1. Section 97.5(n) of Regulation 128 allows the Superintendent to modify the application of this section upon written request of an insurer, if the insurer can demonstrate to the satisfaction of the Superintendent that it has provided other appropriate and equally effective safeguards against the risks and uncertainties addressed by Regulation 128.

2. Credit may be taken for hedges that meet the definition of hedging instrument in Section 97.3(n) of Regulation 128 {i.e., are actual assets held by the company on the valuation date}.

3. In the case of reinsurance assumed where the separate account assets are not transferred, PV VAGLB should reflect all of the benefits paid as if the reinsurer is the direct writing company. PV VAGLB should reflect all benefits, including the guarantee and the account value and not only the guaranteed benefits paid in excess of the account value.

Illustration - Pension products, Potential modified methodology for certain pre-approved cases

Consistent with Section 97.5(n), the application of the requirements contained in Section 97.5 may be modified as follows:

- For applicable products, the company shall have the option of using the applicable LIBOR swap rate instead of 104.5% of the applicable Treasury spot rate for discounting.
- The x factors stated in section 97.5(l) shall be .00 regardless of the years from valuation date to payment date or benefit type.
- To eliminate movements between the separate account and general account, the additional reserves may be held exclusively in the general account.

Additional Guidance

Questions concerning this letter should be directed via e-mail to Fred Andersen (Supervising Actuary – Life) or by phone at (518) 474-7929.