DEPARTMENT OF FINANCIAL SERVICES
STATE OF NEW YORK
SECOND AMENDMENT TO 11 NYCRR 99
INSURANCE REGULATION 151

VALUATION OF ANNUITY, SINGLE PREMIUM LIFE INSURANCE, GUARANTEED INTEREST CONTRACT AND OTHER DEPOSIT RESERVES

I, Benjamin M. Lawsky, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1304, 4217, and 4517 of the Insurance Law, do hereby promulgate the following Second Amendment to Part 99 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 151), to take effect upon publication in the State Register, to read as follows:

(All Matter is New)

A new subdivision (j) is added to section 99.6 to read as follows:

(j) Use of substandard annuity mortality tables in valuing impaired lives under individual single premium immediate annuities.

(1) This subdivision applies to any individual single premium immediate annuity contract issued on or after January 1, 2012 not covered by subdivision (i) of this section, but for which medical records indicate the expectation of life has been reduced and for which the premium charged reflects that reduction.

(2) An insurer may use a substandard annuity mortality table where there is a medical assessment of the annuitant, or measuring life, based on relevant hospital records, treating physicians' reports, or independent medical evaluations that support at least a 25% reduction in the expectation of life, based on either the current valuation table or the insurer's pricing table, consistently applied, compared to a normally healthy individual of the same age and gender. The insurer shall retain the information used in the medical assessment in its underwriting file as proof of the individual's impaired health and shortened longevity for as long as the contract remains in force.

(3) Minimum Reserves

(i) The minimum reserves for a contract subject to this paragraph shall be the reserves obtained by making a constant addition to the mortality rate of the otherwise applicable valuation mortality table, as specified in section 99.10 of this Part. The constant addition shall be determined as follows:

(a) Calculate the present value of future benefits at issue for each contract using a rated up age, the applicable valuation mortality table, and the single premium immediate annuity valuation interest rate. The rated up age must produce an expectation of life under this valuation

mortality table whose percent reduction from the actual age expectation of life under this table is not greater than the percent reduction in the expectation of life supported by the medical assessment described in paragraph (2) of this subdivision; and

(b) Solve for the constant addition to the true age mortality rates such that the present value of future benefits at issue is equal to or greater than the present value obtained in clause *(a)* of this subparagraph. The base mortality table and the valuation interest rate shall be the same as those specified in clause *(a)* of this subparagraph.

(ii) The constant addition to the mortality table shall be made as of the issue date and, once determined, held constant for the period of time that the contract remains in force.

(iii) For every contract subject to this subdivision, the insurer shall maintain records of actual to expected mortality to monitor the appropriateness of the substandard mortality. The appointed actuary must comment on the appropriateness of the substandard mortality and report any material deviations in the actuarial memorandum that supports the actuarial opinion required by Part 95 of this Title (Insurance Regulation 126). The fact that an insurer has held minimum reserves as described in this paragraph shall not relieve the appointed actuary from considering whether the reserves are adequate.

NEW YORK STATE
DEPARTMENT*of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

I, Benjamin M. Lawsky, Superintendent of Financial Services, do hereby certify that the foregoing is the Second Amendment to Part 99 of Title 11 (Insurance Regulation 151), signed by me on March 21, 2012, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1304, 4217, and 4517 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure, prior notice of the proposed amendment was published in the State Register on February 1, 2012. No other publication or prior notice is required by statute.

Benjamin M. Lawsky
Superintendent of Financial Services

Date: March 21, 2012