STATE OF NEW YORK
DEPARTMENT OF FINANCIAL SERVICES
CONSOLIDATED

SIXTH AMENDMENT TO 11 NYCRR 98
(INSURANCE REGULATION 147)
VALUATION OF LIFE INSURANCE RESERVES

FOURTH AMENDMENT TO 11 NYCRR 100
(INSURANCE REGULATION 179)
RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS AND RECOGNITION AND APPLICATION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

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, 1308, 4217, 4218, 4221, 4224, 4240, and 4517 of the Insurance Law, do hereby promulgate the Sixth Amendment to Part 98 and Fourth Amendment to Part 100 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulations 147 and 179) to take effect upon publication in the State Register, to read as follows:

(New Matter is Underscored; Matter in Brackets is Deleted)

Section 98.4(b)(5)(ii) is amended to read as follows:

(ii) X is such that, when using the valuation interest rate used for basic reserves, the actuarial present value of future death benefits calculated using the mortality rates resulting from the application of X is greater than or equal to:

(a) except for a varying premium term life insurance policy or a universal life policy that guarantees that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, as provided in clause *(b)* of this paragraph, the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date; or

(b) for a varying premium term life insurance policy or a universal life policy that guarantees that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, the actuarial present value of future death benefits calculated using anticipated mortality experience with recognition of mortality improvement beyond the valuation date as specified in [Part] section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable;

Section 98.4(b)(5)(iii) is amended to read as follows:

(iii)*(a)* Except for a varying premium term life insurance policy or a universal life policy that guarantees that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, as provided in clause *(b)* of this subparagraph, X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five [(5)] years after the valuation date; or

(b) For a varying premium term life insurance policy or a universal life policy that guarantees coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, with recognition of mortality improvement beyond the valuation date, in each of the first five [(5)] years after the valuation date, as specified in [Part] section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable;

Section 98.4(b)(5)(vii)*(b)* is amended to read as follows:

(b)(1) the appointed actuary shall annually opine separately for:

(i) all policies subject to this Part issued prior to January 1, 2000; and

(ii) all policies subject to this Part issued on or after January 1, 2000, as to whether the mortality rates resulting from the application of X meet the requirements of this paragraph.

(2) The opinion required by this clause shall be supported by an actuarial report, subject to appropriate actuarial standards of practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. Except for a varying premium term life insurance policy or a universal life policy that guarantees that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, the opinion shall reflect future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience. For a varying premium term life insurance policy or a universal life policy that guarantees that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, the opinion shall reflect future mortality, with recognition of mortality improvement beyond the valuation date, as specified in [Part] section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable, taking into account relevant emerging experience.

Section 98.7(b)(1)(iv) is amended to read as follows:

(iv) Basic reserves for the specified premium secondary guarantees.

Basic reserves for the specified premium secondary guarantees shall be determined in accordance with sections 98.4 through 98.6 of the Part treating the policy as a policy with expiry at the end of the secondary guarantee period and using the specified premiums as the gross premiums. The minimum statutory valuation mortality and interest assumptions can be used. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12 of this Title (Insurance Regulation 179), may be applied.</u> The specified premiums shall be used as the gross premiums for the application of the Contract Segmentation Method. Unitary reserves shall be calculated assuming the end of the secondary guarantee period is the mandatory expiry date of the policy.

Section 98.7(b)(1)(v) is amended to read as follows:

(v) Deficiency reserves for the specified premium secondary guarantees.

Deficiency reserves for the specified premium secondary guarantees, if any, shall be calculated for the secondary guarantee period in accordance with sections 98.4 through 98.6 of this Part treating the policy as a policy with expiry at the end of the secondary guarantee period and using the specified premiums as the gross premiums. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12 of this Title (Insurance Regulation 179), may be applied.</u>

<u>**Section 98.9(c)(2)(viii)*(b)(2)* is renumbered as 98.9(c)(2)(viii)(b)*(2)(i)* and amended to read as follows:**</u>

(2)<u>*(i)*</u> For policies issued on or after January 1, 2007 <u>and prior to January 1, 2015</u>, for purposes of applying section 98.7(b)(1) of this Part, an insurer may use a lapse rate of no more than two percent per year for the first five years, followed by no more than one percent per year to the policy anniversary specified in the following table based on issue age, and zero percent per year thereafter. If the period of time from the date of policy issuance to the date of the applicable policy anniversary age in the table is less than five years, then an insurer may use a lapse rate of no more than two percent per year for that period of time, and zero percent per year thereafter.

Issue Age	Policy Anniversary after which the lapse rate is zero
0-50	30th policy anniversary
51-60	Policy Anniversary age 80
61-70	20th policy anniversary
71-89	Policy Anniversary age 90
90 and over	No lapse

A new section 98.9(c)(2)(viii)(b)*(2)(ii)* is added to read as follows:

<u>*(2)(ii)* For policies issued on or after January 1, 2015, for the purposes of applying section 98.7(b)(1) of this Part, an insurer may use a lapse rate of no more than two percent per year for the first five years, followed by no more than one percent per year for the remaining life of the contract.</u>

Section 98.9(c)(2)(viii)*(e)* is amended to read as follows:

(e) Compute the net single premium on the valuation date for the coverage provided by the secondary guarantee for the remainder of the secondary guarantee period, using the applicable valuation table and select factors as prescribed in section 98.4(a) of this Part, or Part 100 of this Title (Insurance Regulation 179), if applicable. For purposes of calculating the net single premium for policies issued on or after January 1, 2007 and prior to January 1, 2015, a lapse rate subject to the same criteria as the lapse rate used in applying item *(i)* of subclause *(2)* of clause *(b)* of this subparagraph may be used. For policies issued on or after January 1, 2015, a lapse rate subject to the same criteria as the lapse rate used in applying item *(ii)* of subclause *(2)* of clause *(b)* of this subparagraph may be used.

Subdivision (c) of section 100.1 is amended to read as follows:

(c) to recognize and permit the use of mortality improvement scale LT to be used in conjunction with the 2001 CSO Mortality Table and the 2001 CSO Preferred Class Structure Mortality Table for preferred lives for varying premium term life insurance and for universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement.

Section 100.2 is amended to read as follows:

This Part shall apply to every life insurance company and fraternal benefit society doing business in this State and every life insurance company and fraternal benefit society holding a certificate from the superintendent as being accredited for the reinsurance of life insurance, annuities or accident and health insurance (all hereafter referred to as insurers). It shall be applicable to all individual life insurance policies and all group life insurance certificates subject to Part 98 of this Title, whether funded in the general account or in a separate account, no matter where issued or assumed, and no matter where shown in the annual statement, except that section 100.11 of this Part shall be applicable only to varying premium term life insurance and section 100.12 of this Part shall be applicable only to universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, as described in section 98.9(c)(2)(viii) of this Title (Insurance Regulation 147). Any nonforfeiture provision contained in this Part shall apply to only individual life insurance policies delivered or issued for delivery in this state. This Part shall be applicable to such insurers for all statements filed after the effective date of this Part and subject to the transition dates in sections 100.4, 100.8, [and] 100.11, and 100.12 of this Part.

Section 100.3(o) is amended to read as follows:

(o) *Mortality improvement scale LT* means annual rates, LT1 and LT2, of mortality improvement by policy year, to be used for projecting future mortality rates, as described in [section] sections 100.11(c)(2) and 100.12(c)(2) of this Part.

Section 100.6(a)(2) is amended to read as follows:

(2) Part 98.4(a)(3) of this Title: The 2001 CSO Mortality Table is the minimum mortality standard for basic reserves. For varying premium term life insurance issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12 of this Part, may also be applied.</u>

Section 100.6(a)(3) is amended to read as follows:

(3) Part 98.4(b)(5) of this Title: The 2001 CSO Mortality Table is the minimum mortality standard for deficiency reserves. For varying premium term life insurance issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12 of this Part, may also be applied.</u> If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Parts 98.4(b)(5)(i) – 98.4(b)(5)(vii) of this Title. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

Section 100.6(a)(7) is amended to read as follows:

(7) Part 98.6(a)(4) of this Title: The select and ultimate mortality rates in the 2001 CSO Mortality Table may only be used for the first segment. Ultimate mortality rates in the 2001 CSO Mortality Table must be used for the second and later segments. For varying premium tem life insurance issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12, may also be applied.</u>

Section 100.6(a)(8) is amended to read as follows:

(8) Part 98.6(b)(4) of this Title: The select and ultimate mortality rates in the 2001 CSO Mortality Table may only be used for the first segment. Ultimate mortality rates in the 2001 CSO Mortality Table must be used for the second and later segments. For varying premium term life insurance issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. <u>For universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015, recognition of mortality improvement, as specified in section 100.12, may also be applied.</u>

Section 100.12 is renumbered as section 100.13 and a new section 100.12 is added to read as follows:

Section 100.12 Universal Life Policies That Guarantee That Coverage Will Remain In Force As Long As The Accumulation Of Premiums Paid Satisfies The Secondary Guarantee Requirement Mortality Improvement.

(a) This section applies to universal life policies that guarantee that coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015.

(b) An insurer shall use the methodology for applying mortality improvement scale LT in conjunction with either the 2001 CSO Mortality Table, or for preferred lives meeting the conditions of section 100.9 of this Part, the 2001 CSO Preferred Class Structure Mortality Table. The resulting mortality adjusted table shall be the minimum mortality standard for policies issued on or after January 1, 2015.

(c)(1) The annual improvement rates, LT1 and LT2, from mortality improvement scale LT shall be applied only within the first segment. The length of each segment shall be determined at issue by the Contract Segmentation Method, as described in Part 98.5 of this Title. The value, t, shall be the number of policy years after the year 2008. The annual improvement rates and the formula for applying the rate are shown in paragraph (2) of this subdivision.

(2) The mortality rate for a person age x in year (2008 + t) is calculated as follows, where q_x^{2008} is the appropriate rate from the 2001 CSO Mortality Table, or for preferred lives meeting the conditions of section 100.9 of this Part, the 2001 CSO Preferred Class Structure Mortality Table:

(i) $q_x^{2008+t} = q_x^{2008} * (1 - LT1)^t$ for t = 1 through 40;

(ii) $q_x^{2008+t} = q_x^{2008} * (1 - LT1)^{40} * (1 - LT2)^{(t-40)}$ for t = 41 and greater;

(iii) LT1 equals 0.01;

(iv) LT2 equals 0.005;

(v) the mortality rate for attained ages 81 through 90 shall be linearly graded from the adjusted q_x^{2008+t} rates back to the unadjusted q_x^{2008} rates; and

(vi) the resulting q_x^{2008+t} shall be rounded to two decimal places per 1,000, e.g., 0.68 deaths per 1,000. After the first segment, the rates revert to the q_x^{2008} rates.

(d) A numerical example of applying the annual improvement rates and formulas from subdivision (c) of this section follows. The example assumes a super-preferred 45 year old male non-smoker with issue year 2015. The unadjusted mortality table, q_x^{2008}, is the 2001 CSO M NS Super Preferred ANB Select & Ultimate Mortality Table. The first segment has a length of 75 years. Select mortality rates shall be used only for the first segment and the Ultimate rates of the 2001 CSO M NS Super Preferred ANB table must be used thereafter. The rates of mortality per 1,000 lives based on age nearest birthday through attained age 90 are shown below.

Attained Age (x)	q_x^{2008}	LT Adjusted q_x^{2008+t}
45	0.68	0.63
46	0.82	0.76
47	0.96	0.88
48	1.09	0.99
49	1.25	1.12
50	1.42	1.26
51	1.64	1.44
52	1.87	1.62
53	2.10	1.81
54	2.33	1.98
55	2.63	2.22
56	3.01	2.51
57	3.35	2.77
58	3.65	2.99
59	4.00	3.24
60	4.45	3.57
61	5.01	3.98
62	5.65	4.44
63	6.32	4.92
64	6.91	5.32
65	7.84	5.98
66	9.20	6.94
67	10.35	7.73
68	11.91	8.81
69	13.20	9.67
70	16.60	12.03
71	18.22	13.08
72	20.34	14.45
73	22.57	15.88
74	24.92	17.35
75	27.49	18.95
76	30.98	21.15
77	35.06	23.69
78	39.86	26.67
79	45.48	30.27
80	51.76	34.28
81	59.01	40.90
82	66.77	48.38
83	75.32	56.99
84	84.96	67.08
85	95.87	78.90
86	108.19	92.73

87	121.88	108.70
88	136.86	126.90
89	153.02	147.41
90	170.30	170.30

I, Benjamin M. Lawsky, Superintendent of Financial Services, do hereby certify that the foregoing is the Sixth Amendment to Part 98 and Fourth Amendment to Part 100 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulations 147 and 179) signed by me on March 17, 2015 pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1304, 1308, 4217, 4218, 4221, 4224, 4240, and 4517 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the State Register on January 28, 2015. No other publication or prior notice is required by statute.

Benjamin M. Lawsky
Superintendent of Financial Services

Date: March 17, 2015