

**STATE OF NEW YORK
DEPARTMENT OF FINANCIAL SERVICES
CONSOLIDATED**

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

**SIXTH AMENDMENT TO 11 NYCRR 100
(INSURANCE REGULATION 179)
RECOGNITION OF THE 2001 CSO MORTALITY TABLE AND THE 2017 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, Maria T. Vullo, 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 Eighth Amendment to Part 98 and Sixth 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)(a) and (b) are amended to read as follows:

(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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, as provided in clause *(b)* of this subparagraph, 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, 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 section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable;

Section 98.4(b)(5)(iii)(a) and (b) are amended to read as follows:

(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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, 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 years after 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, 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 years after the valuation date, as specified in section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable;

Section 98.4(b)(5)(vii)(b)(2) is amended to read as follows:

(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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) or 100.12(b) of this Title (Insurance Regulation 179), respectively, the opinion shall reflect future mortality, with recognition of mortality improvement beyond the valuation date, as specified in section 100.11 or 100.12 of this Title (Insurance Regulation 179) as applicable, taking into account relevant emerging experience.

Section 98.6(a)(1) is amended to read as follows:

(1) Methodology for calculating basic reserves.

(i) Except for a policy of varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subparagraph (iii) of this paragraph, as provided in subparagraph (ii) of this paragraph, basic reserves for each life insurance policy with nonlevel premiums and/or nonlevel death benefits shall be the greater of the unitary reserves or the segmented reserves as defined in paragraph (2) of this subdivision. The reserves shall be at least as great as those required by section 98.4 and paragraphs (3) through (6) of this subdivision regarding methodology and mortality, and interest rate considerations shall apply to such a policy.

(ii) For a policy of varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, paragraphs (7) through (12) of this subdivision shall apply.

(iii) An insurer that as of December 31, 2016 utilized the provisions of paragraphs (7) through (12) of this subdivision for any varying premium term life insurance policies issued on or after January 1, 2015 and prior to January 1, 2017, may elect to continue to apply the provisions of said paragraphs to varying premium term life insurance policies issued on or after January 1, 2017 and prior to January 1, [2018] 2019, provided that:

(a) In applying the provisions of paragraphs (7) through (12) of this subdivision, the insurer shall utilize the 2001 CSO Mortality Table, or for preferred lives meeting the conditions of section 100.9 of this Title (Insurance Regulation 179), the 2001 CSO Preferred Class Structure Mortality Table; and

(b) The insurer provides written notification to the superintendent by [June 30, 2017] January 31, 2019.

Section 98.6(a)(7) is amended to read as follows:

(7) For a varying premium term life insurance policy issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under paragraph (1)(iii) of this subdivision, basic reserves for a life insurance policy with non-level premiums or non-level death benefits shall be the greater of the unitary reserves or the segmented reserves for varying premium term life insurance prescribed in paragraph (8) of this subdivision.

Section 98.6(b)(1)(ii) is amended to read as follows:

(ii) For a policy of varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (a)(1)(iii) of this section, this paragraph shall apply to any policy for which the gross premium at any future duration is less than the corresponding modified net premium calculated on the basis of the commissioners reserve valuation method for varying premium term life insurance, as specified in subdivision (a)(9) of this section.

Section 98.6(b)(2) is amended to read as follows:

(2) Deficiency reserves, if any, shall be calculated for each policy as the excess of quantity A over basic reserves, where quantity A shall be determined by recalculating basic reserves using the commissioners reserve

valuation method and, for varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (a)(1)(iii) of this section, the commissioners reserve a valuation method for vary premium term life insurance, as specified in subdivision (a)(9) of this section, and using the maximum allowable valuation interest rate and the minimum mortality standard allowable for deficiency reserves and replacing the modified net premium by the gross premium for the policy for each contract year for which the modified net premium exceeds the gross premium. The quantity A should be calculated on a unitary basis if basic reserves are unitary, and on a segmented basis if basic reserves are segmented. If unitary and segmented basic reserves are equal, deficiency reserves should be calculated on a segmented basis. When deficiency reserves are calculated on a segmented basis the length of each segment for quantity A segmented reserves shall equal the length of the corresponding segment for basic segmented reserves. Quantity A segmented reserves shall reflect benefits and premiums in the current segment and all future segments.

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 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. The minimum statutory valuation mortality and interest assumptions can be used. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Title (Insurance Regulation 179), recognition of mortality improvement, as specified in section 100.12 of this Title (Insurance Regulation 179), may be applied. 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. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Title (Insurance Regulation 179), recognition of mortality improvement, as specified in section 100.12 of this Title (Insurance Regulation 179), may be applied.

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

(i) For policies issued on or after January 1, 2007, except for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1,

[2018] 2019 if optionally elected under item (iii) of this subclause, 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	30 th policy anniversary
51 – 60	Policy Anniversary age 80
61 – 70	20 th policy anniversary
71 – 89	Policy Anniversary age 90
90 and over	No lapse

(ii) For policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under item (iii) of this subclause, 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.

(iii) An insurer that as of December 31, 2016 utilized the provisions of item (ii) of this subclause for any policies issued on or after January 1, 2015 and prior to January 1, 2017, may elect to continue to apply the provisions of said item to policies issued on or after January 1, 2017 and prior to January 1, [2018] 2019, provided that:

(A) In applying the provisions of item (ii) of this subclause, the insurer shall utilize the 2001 CSO Mortality Table, or for preferred lives meeting the conditions of section 100.9 of this Title (Insurance Regulation 179), the 2001 CSO Preferred Class Structure Mortality Table.

(B) The insurer provides written notification to the superintendent by [June 30, 2017] January 31, 2019.

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, except for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under clause (b)(2)(iii) of this subparagraph, a lapse rate subject to the same criteria as the lapse rate used in applying clause (b)(2)(i) of this subparagraph may be used. For policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under clause (b)(2)(iii) of this subparagraph,

a lapse rate subject to the same criteria as the lapse rate used in applying clause (b)(2)(ii) of this subparagraph may be used.

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

(2) Section 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) of this Part, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Part, recognition of mortality improvement, as specified in section 100.12 of this Part, may also be applied.

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

(3) Section 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) of this Part, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Part, recognition of mortality improvement, as specified in section 100.12 of this Part, may also be applied. 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 section 98.4(b)(5)(i) – (vii) of this Title. In demonstrating compliance with those conditions, the demonstrations shall not combine the results of tests across different mortality tables (e.g. the results of tests that utilize the 1980 CSO Mortality Table shall not be combined with the results of 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) Section 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 shall be used for the second and later segments. For varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) of this Part, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Part, recognition of mortality improvement, as specified in section 100.12, may also be applied.

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

(8) Section 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 shall be used for the second and later segments. For varying premium term life insurance issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.11(b) of this Part, recognition of mortality improvement, as specified in section 100.11 of this Part, may also be applied. 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under section 100.12(b) of this Part, recognition of mortality improvement, as specified in section 100.12, may also be applied.

Section 100.11(a) – (c) are amended to read as follows:

(a) This section applies to varying premium term life insurance policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (b) of this section.

(b) An insurer that as of December 31, 2016 utilized the provisions of this section for any varying premium term life insurance policies issued on or after January 1, 2015 and prior to January 1, 2017, may elect to continue to apply the provisions of this section to varying premium term life insurance policies issued on or after January 1, 2017 and prior to January 1, [2018] 2019, provided that the insurer provides written notification to the superintendent by [June 30, 2017] January 31, 2019.

(c) 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (b) of this section.

Section 100.12(a) – (c) are amended to read as follows:

(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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (b) of this section.

(b) An insurer that as of December 31, 2016 utilized the provisions of this section for any 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 and prior to January 1, 2017, may elect to continue to apply the provisions of this section 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, 2017 and prior to January 1, [2018] 2019, provided that the insurer provides written notification to the superintendent by [June 30, 2017] January 31, 2019.

(c) 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 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, [2018] 2019 if optionally elected under subdivision (b) of this section.



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

I, Maria T. Vullo, Superintendent of Financial Services, do hereby certify that the foregoing is the Eighth Amendment to Part 98 and Sixth 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 December 18, 2018 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 October 17, 2018. No other publication or prior notice is required by statute.

A handwritten signature in blue ink, appearing to read "Maria T. Vullo", written over a horizontal line.

Maria T. Vullo
Superintendent of Financial Services

Date: December 18, 2018