

Summary of First Amendment to 11 NYCRR 103 (Insurance Regulation 213)

Section 103.1 is renumbered as section 103.2 and amended to specify that this Part applies to all life insurance companies and fraternal benefit societies doing business in New York State and all insurers holding a certificate from the Superintendent of Financial Services (“Superintendent”) as being accredited for the reinsurance of life insurance, annuity contracts, or accident and health insurance.

Section 103.2 is renumbered as section 103.3 and is amended to provide that except where the National Association of Insurance Commissioners’ (“NAIC’s”) 2019 valuation manual (the “Manual”) conflicts with any provision of the Insurance Law or regulations promulgated thereunder, the valuation manual is adopted in its entirety, subject to the effective dates and other requirements specified in the rule that deviate from the valuation manual.

A new section 103.1 is added to specify the purpose of this Part, which is to prescribe the minimum standards for valuing statutory reserves subject to the requirements of the Manual.

A new section 103.4 (“valuation of individual term life insurance reserves”) is added to specify the minimum valuation standards for individual term life insurance policies issued on or after January 1, 2020. The minimum aggregate reserve shall be the greater of: (1) the sum of the greater of the cash surrender value and 70% of the minimum reserve for each policy determined under the current valuation requirements; and (2) the minimum aggregate reserve calculated in accordance with the methodology and assumptions prescribed by the Manual prior to reflecting any reinsurance ceded. An insurer may submit a request to the Superintendent to delay the implementation of the minimum valuation standards for individual term life insurance policies subject to section 103.4, such that the minimum valuation standards will be effective for policies issued on or after January 1, 2021, upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent’s approval.

A new section 103.5 (“valuation of payout annuity reserves”) is added to specify the minimum valuation standards for payout annuities with premium determination dates on or after January 1, 2019. Insurers are given the following three options to determine the maximum valuation interest rates for policies and contracts with premium determination dates during 2019: (1) the current requirements prescribed by Insurance Law section 4217(c); (2) the current requirements prescribed by Insurance Law section 4217(c) where the reference rate defined by Insurance Law section 4217(c)(4)(F) is reset monthly for jumbo contracts and quarterly for non-jumbo contracts; or (3) the lesser of the rate determined in accordance with section VM-22 of the Manual with certain adjustments, including setting the prescribed portfolio credit quality distribution to 5% treasuries, 45% AA bonds, 50% A bonds and placing a 200 basis point cap on spreads, and the rate determined in accordance with section VM-22 of the Manual without adjustments. For policies and contracts with premium determination dates on or after January 1, 2020, the maximum valuation interest rate shall be determined in accordance with option (3) as stated above. The minimum reserve must be the greater of the minimum reserve calculated in accordance with the current valuation requirements, except that the maximum valuation interest rate must be as determined in accordance with this section, and the minimum reserve calculated in accordance with the methodology and assumptions prescribed by the Manual.

A new section 103.6 (“valuation of variable annuity reserves”) is added to specify the minimum valuation standards for variable annuities effective for valuations on or after January 1, 2020. For policies and contracts issued prior to January 1, 2020, the minimum reserve must be the greater of the minimum reserve calculated in accordance with the methodology and assumptions of the Standard Scenario Reserve prescribed by the 2017 Actuarial Guideline XLIII with certain adjustments and the minimum reserve calculated in accordance with the methodology and assumptions prescribed by the Manual. Such adjustments to the Standard Scenario Reserve prescribed by the 2017 Actuarial Guideline XLIII affect the mortality, discount rate and lapse rate assumptions.

For policies and contracts issued prior to January 1, 2020, insurers are granted a three-year phase-in for any reserves in excess of the greater of the aggregate minimum reserves determined in accordance with the 2017 Actuarial Guideline XLIII and the aggregate minimum reserves determined in accordance with the Manual.

For policies and contracts issued on or after January 1, 2020, the minimum reserve must be the greater of the minimum reserve calculated in accordance with the methodology and assumptions of section 103.6(e) and the minimum reserve calculated in accordance with the methodology and assumptions prescribed by the Manual. Section 103.6(e) dictates that the minimum reserve must be the greater of the standard scenario reserve, cash surrender value, and option value floor and prescribes the required methodology and assumptions, including those for discount rates, fund returns, mortality, lapse rates, and election rates, in order to calculate such amounts.

A new section 103.7 (“valuation of all other reserves”) is added to specify the minimum valuation standards for individual life insurance policies issued on or after January 1, 2020 and group life insurance policies, annuity contracts, and accident and health insurance contracts issued on or after January 1, 2021, for which sections 103.4, 103.5, and 103.6 of Part 103 do not apply. The minimum reserve must be the greater of the minimum reserve calculated in accordance with the current valuation requirements and the minimum reserve calculated in accordance with the methodology and assumptions prescribed by the Manual. Aggregation at the level prescribed by the Manual is permissible for individual life insurance. An insurer may submit a request to the Superintendent to delay the implementation of the minimum valuation standards for individual life insurance policies subject to section 103.7, such that the minimum valuation standards will be effective for policies issued on or after January 1, 2021, upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent’s approval.

A new section 103.8 (“reinsurance”) is added to prescribe the determination of reinsurance reserve credits for policies and contracts subject to Part 103. A credit for reinsurance must equal the difference between the minimum reserve calculated prior to reflecting reinsurance ceded and the greater of the reserve using the current reinsurance accounting requirements and the reserve determined in accordance with the Manual after reflecting reinsurance ceded.