



**GUIDANCE DATE: 1/5/2023**

### **IMPORTANT NOTICE REGARDING RESERVES FOR GIFT ANNUITIES**

The Department is concerned about the adequacy of reserves being held by charitable organizations in support of gift annuities. The reasons for our concerns are as follows:

- I. Now that assets are valued on a market value basis, an inconsistency exists with the way in which liabilities are being valued.
- II. The 2012 IAR mortality rates are not conservative and do not make a provision for adverse deviations in experience.
- III. The maximum valuation interest rates specified in the law are not conservative.
- IV. Asset Liability Mismatch (ALM) Risk – Many organizations have a high degree of ALM risk and are holding a high concentration of assets with substantial volatility and/or credit risk. However, reserves are not being held for potential declines in asset values.
- V. Reserves for future expenses are not being held.
- VI. The statistical theory upon which reserves are based is not applicable in many cases due to an insufficient number of annuitants; rendering prescribed mortality rates statistically unreliable. This results in a significantly increased likelihood of inadequate formula reserves.

**Therefore, in addition to meeting the surplus requirements of Section 1110(b) of the Insurance Law, charitable organizations shall take the following action:**

1. Prepare and file an Actuarial Opinion and Memorandum based on asset adequacy analysis per 11 NYCRR 95 (Regulation 126); or
2. As an alternative to (1), the minimum reserve held must be at least as great as 115% of the reserve calculated using the method required by Section 4217 of the Insurance Law and 11 NYCRR 99 (Regulation 151) and 11 NYCRR 103 (Regulation 213) per Section 95.11(b) of Regulation 126.

An example of the calculation of the minimum reserves and assets has been provided for complying with option (2).

**EXAMPLE (Option 2):**

For illustrative purposes, assume that the reserve calculated using the method required by Section 4217 of the Insurance Law and Regulations 151 and 213 = \$100,000.

In the absence of an Actuarial Opinion and Memorandum, minimum required values shall be determined as follows:

**For organizations that have obtained a special permit to issue gift annuity agreements in New York:**

$$\begin{aligned} \text{Minimum Required Reserves} &= \$115,000 = \$100,000 * 1.15 \\ \text{Minimum Required Assets} &= \$126,500 = \$115,000 * 1.10 \end{aligned}$$

**For organizations that have received an exemption from obtaining a special permit to issue gift annuity agreements in New York in accordance with Section 1110(d) of the Insurance Law:**

$$\begin{aligned} \text{Minimum Required Reserves} &= \$115,000 = \$100,000 * 1.15 \\ \text{Minimum Required Assets} &= \$143,750 = \$115,000 * 1.25 \end{aligned}$$

Additional Guidance

Questions concerning this notice should be directed via e-mail to [ALBLIF](#).