

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 312 and 1113;
(18 **Del.C.** §311, §1113)
18 **DE Admin. Code** 1215

EMERGENCY

Docket No. 1080

1215 Recognition of Preferred Mortality Tables for use in Determining Minimum Reserve Liabilities

EMERGENCY ORDER

Pursuant to 29 **Del.C.** § 10119, it is necessary to promulgate an amendment to Regulation 1215 relating to Recognition of Preferred Mortality Tables for use in Determining Minimum Reserve Liabilities

REASONS FOR EMERGENCY ACTION

A. Due to current economic conditions, the Department believes that applying the provisions of current Regulation 1215, which were effective February 11, 2007, retroactively to January 1, 2004 serves the best interest of the general public by improving the capital condition of insurance companies.

B. The Department has completed the work necessary to submit the proposed amended regulations for public comment and by issuing this emergency order will permit time for public comment and the consideration of further amendments prior to final adoption of the amendments.

DECISION AND ORDER

1. The proposed amendments to Regulation 1215 are promulgated as an emergency regulation effective March 1, 2009.

2. This order shall be effective until September 1, 2009 or until the attached amendment to Regulation 1215 is adopted pursuant to the Delaware Administrative Procedures Act whichever shall first occur. The Department will receive, consider and respond to petitions by any interested person for the reconsideration or revision of the emergency regulation.

3. The Department gives public notice of the proposed amendment to Regulation 1215 as required by 29 **Del.C.** § 10115 as follows:

INSURANCE COMMISSIONER KAREN WELDIN STEWART hereby gives notice of proposed amendments to Department of Insurance Regulation 1215 relating to Recognition of Preferred Mortality Tables for use in Determining Minimum Reserve Liabilities. The docket number for this proposed regulation is 1080.

The Delaware Code authority for the change is 18 **Del.C.** §§ 311, and 1113. The text can also be viewed at the Delaware Insurance Commissioner's website at www.delawareinsurance.gov and clicking on the link for "Proposed Regulations."

Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Monday, April 6, 2009 by delivering said comments to Mitch Crane, Esquire, Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.2021 or emailed to mitch.crane@state.de.us.

Since the wording of the attached emergency regulation is identical to the wording the Department intends to adopt as a final regulation, public comment on the emergency regulation shall be deemed to be public comment on the proposed regulation as would otherwise be permitted under 29 **Del.C.** § 10115.

IT IS SO ORDERED this 17th day of February, 2009

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

1215 Recognition of Preferred Mortality Tables for use in Determining Minimum Reserve Liabilities

1.0 Authority

- 1.1 This regulation is promulgated by the Commissioner of Insurance pursuant to 18 **Del.C.** §§311 and 1113 and Sections 5.1 and 5.2 of 18 **DE Admin. Code** 1212 (referred to as "Regulation 1212").

2.0 Purpose

- 2.1 The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with 18 **Del.C.** §§311 and 1113 and Sections 5.1 and 5.2 of Regulation 1212.

3.0 Definitions

"2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

- (1) **"2001 CSO Mortality Table (F)"** means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.
- (2) **"2001 CSO Mortality Table (M)"** means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.
- (3) **"Composite mortality tables"** means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.
- (4) **"Smoker and nonsmoker mortality tables"** means mortality tables with separate rates of mortality for smokers and nonsmokers.

"2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September, 2006 national meeting and published in the NAIC Proceedings {3rd Quarter 2006}. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

“Statistical agent” means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

4.0 2001 CSO Preferred Class Structure Table

- 4.1 At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007, or with the consent of the Commissioner, January 1, 2004. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of the NAIC model regulation, “Recognition of the 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits Model Regulation.”

5.0 Conditions

- 5.1 For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:
- 5.1.1 The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.
- 5.1.2 The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.
- 5.2 For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:
- 5.2.1 The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basis table corresponding to the valuation table being used for that class.
- 5.2.2 The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.
- 5.3 Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the commissioner or

the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

6.0 Separability

- 6.1 If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

7.0 Effective Date

- 7.1 The effective date of this regulation shall be ~~February 11, 2007~~ 10 days after execution by the Commissioner and effective for valuations on and after December 31, 2008.

10 DE Reg. 1306 (02/01/07)

12 DE Reg. 1146 (03/01/09) (Prop.)