



AMERICAN ACADEMY of ACTUARIES

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June 22, 2017

William B. Carmello, Chief Life Actuary
New York Department of Financial Services
Life Bureau
One Commerce Plaza, 19th Floor
Albany, New York 12257

Re: American Academy of Actuaries Comments on Re-Proposed 11 NYCRR 48 (Insurance Regulation 210) on Life Insurance and Annuity Non-Guaranteed Elements

Dear Mr. Carmello:

The Non-Guaranteed Elements Work Group of the American Academy of Actuaries¹ appreciates the department's consideration of our Jan. 17, 2017, comments and revisions incorporated into the re-proposed NY Regulation 210.

We encourage you to consider the following comments, which we believe are needed to clarify the intent of the regulation and aid practitioners in compliance.

1. 48.1(h)—We recommend replacing the term “policy” in the definition of “Experience factor” to “class of policies.” Definition 48.1(e) for “Class of Policies” more accurately describes the policies for which actual experience is measured in determining experience factors.

“48.1(h) Experience factor means a value or set of values consisting of investment income, mortality, morbidity, persistency, or expense that represents the insurer’s financial experience on a class of policies. Profit margin is not an experience factor.”

2. 48.2(d)—As drafted, the proposed regulation would restrict an insurer’s ability to consider changes in costs for reinsurance and other third-party agreements when considering a change to non-guaranteed elements unless the insurer can justify the change in absence of these costs. In prior guidance, the department has recognized that reinsurance and other third-party costs are considered to be material actuarial assumptions, similar to other expenses that the insurer must consider, for pricing related

¹ The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

demonstrations such as self-support (e.g., NY OGC June 5, 2002, opinion re: Reinsurance and NY Ins Law Sec. 4228(h)).

We recommend that the regulation recognize changes in costs for reinsurance and other third-party agreements similar to changes in other expenses that the insurer may consider.

3. 48.2(e)—There are circumstances where the procedures used by the original insurer are not available, nor is sufficient information available to replicate those procedures. To address situations in which original pricing information is not available, we recommend that the department consider adding language that authorizes the superintendent to approve the increase if the assumptions used are approved by the superintendent.
4. 48.2(f)(3)—It is not clear when the five-year period begins for policies that are in force when the regulation becomes effective. We recommend the department provide guidance on how the five-year period should be measured for inforce blocks.

Thank you for the opportunity to comment. If you have any questions or would like to discuss these topics, please contact Heather Jerbi, the Academy's assistant director of public policy, at jerbi@actuary.org.

Sincerely,

Gabe Schiminovich, MAAA, FSA
Chairperson, Non-Guaranteed Elements Work Group
American Academy of Actuaries