UNIVERSAL LIFE INSURANCE MODEL REGULATION

Table of Contents

Section 1. Authority

This regulation is promulgated under the authority of Section [insert applicable section], of the Insurance Laws of [insert state], and is effective [insert date].

Section 2. Purpose

The purpose of this regulation is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans.

Drafting Note: It is the position of the drafters of this regulation that universal life insurance is simply another competing type of life insurance which should be treated, to the extent possible, in the same regulatory manner as other life insurance products. This regulation is designed to address those areas where universal life insurance does not "fit" into the existing regulatory framework. This regulation does not supersede existing requirements relating to filing, solicitation, advertising, etc., but is supplementary to them.

Section 3. Definitions

As used in this regulation:

A. "Cash surrender value" means the net cash surrender value plus any amounts outstanding as policy loans.

B. "Commissioner" means the Insurance Commissioner of this state.

Drafting Note: Insert the title of the chief insurance regulatory official wherever the term "commissioner" appears.

C. "Fixed premium universal life insurance policy" means a universal life insurance policy other than a flexible premium universal life insurance policy.

D. "Flexible premium universal life insurance policy" means a universal life insurance policy which permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.

E. "Interest-indexed universal life insurance policy" means any universal life insurance policy where the interest credits are linked to an external referent.

Drafting Note: This definition is not intended to include those policies which only have a variable policy loan interest rate provision, but have no other link to an external referent. This regulation presently addresses only the indexing of interest credits. The regulation does not preclude the indexing of other factors, e.g., mortality or expenses. Should other products be developed which involve the indexing of factors other than interest credits, this regulation may require modification. The regulation does not preclude insurance departments from adding requirements regarding the indexing of such other factors.

F. "Net cash surrender value" means the maximum amount payable to the policyowner upon surrender.

G. "Policy value" means the amount to which separately identified interest credits and mortality, expense, or other charges are made under a universal life insurance policy.

Drafting Note: Universal life insurance policies may use designated amounts for different purposes. These include the following: the base upon which interest credits are calculated; the amount subtracted from the policy's face value to determine net amount at risk for calculation of mortality charges, and the amount paid upon surrender. These amounts may all be the same or may be different. For purposes of this regulation, these amounts do not define policy value, although they may be coincidentally equal to that amount as defined above.

Care should be taken not to place undue emphasis on the policy or "account" value. Very often the policy value is not directly available to the policyowner. Instead, the policy value is an intermediate step used to determine benefits actually available to the policyowner such as cash surrender values, net cash surrender values, death benefits, or maturity values. The benefits actually provided the policyowner should be considered in establishing valuation and nonforfeiture standards.

H. "Universal life insurance policy" means a life insurance policy where separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

Drafting Note: This regulation is specifically designed for individual life insurance policies. It is not intended, however, to prohibit the issuance of group universal life insurance policies. States are free to adopt whatever portions of this regulation which are appropriate for group insurance and which are in accordance with state law.

Unlike the unitary nature of traditional whole life insurance, a distinguishing feature of universal life insurance is the existence of an indeterminate policy value from which specified periodic charges are deducted and to which specified periodic interest is credited at a rate not determined at issue. This indeterminate policy value feature with separately identified charges and credits may or may not have a premium pattern predetermined by the insurer at issue. Valuation and nonforfeiture treatment of these products varies depending upon the nature of the premium pattern. To distinguish these treatments, a definitional distinction has been made between "flexible" and "fixed" premium policy forms.

Section 4. Scope

This regulation applies to all individual universal life insurance policies except variable universal life.

Section 5. Valuation

A. Requirements

The minimum valuation standard for universal life insurance policies shall be the Commissioners Reserve Valuation Method, as described below for such policies, and the tables and interest rates specified below. The terminal reserve for the basic policy and any benefits and/or riders for which premiums are not paid separately as of any policy anniversary shall be equal to the net level premium reserves less (C) and less (D), where:

Reserves by the net level premium method shall be equal to ((A)-(B))r where (A), (B) and "r" are as defined below:

(A) is the present value of all future guaranteed benefits at the date of valuation.

(B) is the quantity $\frac{PVFB}{a_x} a_{x+t}$

where PVFB is the present value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.

a_x and a_{x+t} are present values of an annuity of one per year payable on policy anniversaries beginning at ages x and x+t, respectively, and continuing until the highest attained age at which a premium may be paid under the policy. The letter "x" is defined as the issue age and the letter "t" is defined as the duration of the policy.

The guaranteed maturity premium for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy on the latest maturity date, if any, permitted under the policy (otherwise at the highest age in the valuation mortality table), for an amount which is in accordance with the policy structure.[1] The guaranteed maturity premium is calculated at issue based on all policy guarantees at issue (excluding guarantees linked to an external referent). The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at issue provides the minimum policy guarantees.[2]

The letter "r" is equal to one, unless the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, in which case "r" is the ratio of the policy value to the guaranteed maturity fund.

The guaranteed maturity fund at any duration is that amount which, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(C) is the quantity $((a)-(b))\frac{a_{x+t}}{a_x}r$ where (a)-(b) is as described in [insert reference to Section 4 of the Standard Valuation Law] for the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer.

a_{x+t} and a_x are defined in (B) above.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes[3] in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The guaranteed maturity premium, the guaranteed maturity fund and (B) above shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the descriptions above.

Future guaranteed benefits are determined by (1) projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (i) an interest rate (or rates) specified by [insert reference to the Standard Valuation Law] for policies issued in the same year; (ii) the mortality rates specified by the [insert reference to the Standard Valuation Law] for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose; and (iii) any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

Drafting Note: To the extent that the insurer declares guarantees more favorable than those in the policy (contractual guarantees), such declared guarantees shall be applicable to the determination of future guaranteed benefits.

The mortality and interest bases for calculating present values are the minimum standards in the Standard Valuation Law.

Ever since the adoption of the original Standard Valuation Law (SVL) in 1942, provision has been made for valuation calculations on the basis of substandard mortality. (See Section 4G of SVL). While this provision has been used infrequently in the past, it is anticipated that substandard mortality will be more frequently utilized in universal life insurance, given its flexible nature, to reflect the mortality classification assigned to the policy by the insurer.

In effecting structural changes, consistent methods are prescribed when calculating reserves. Several such methods are possible, but perhaps the simplest such method would be that of maintaining proportionality between the Guaranteed Maturity Fund and Guaranteed Maturity Premium values and the current face amount. In applying this method, Guaranteed Maturity Fund and Guaranteed Maturity Premium values could be calculated per dollar of face amount and simply multiplied by the new face amount. This would eliminate much of the complexity involved in other methods.

B. Alternative Minimum Reserves

If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of (1) or (2).

(1) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

(2) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the Guaranteed Maturity Premium in each policy year for which the valuation net premium exceeds the Guaranteed Maturity Premium.

For universal life insurance reserves on a net level premium basis, the valuation net premium is $\frac{PVFB}{a_x}$

and for reserves on a Commissioners Reserve Valuation Method, the valuation net premium is $\frac{PVFB}{a_x} + \frac{(a)-(b)}{a_x}$

Section 6. Nonforfeiture

A. Minimum Cash Surrender Values for Flexible Premium Universal Life Insurance Policies Minimum cash surrender values for flexible premium universal life policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of (i) the benefit charges, (ii) the averaged administrative expense charges for the first policy year and any insurance-increase years, (iii) actual administrative expense charges for other years, (iv) initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively, (v) any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit) and (vi) any deductions made for partial withdrawals; all accumulations being at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

Interest on the premiums and on all charges referred to in items (i)-(vi) above shall be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the policy value.

The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the Commissioner shall have the right to require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.[4]

The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the policy value.

The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

The initial expense allowance shall be the allowance provided by [insert reference to Section 5 or 5cA of the Standard Nonforfeiture Law for Life Insurance] for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined above.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with the above and with [Section 5cE of the Standard Nonforfeiture Law for Life Insurance], using the face amount and the latest maturity date permitted at that time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age x+t (where "x" is the same issue age) shall be the unused initial expense allowance multiplied by $\frac{a_{x+t}}{a_x}$ where

a_{x+t} and a_x are present values of an annuity of one per year payable on policy anniversaries beginning at ages x+t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with a_x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

Drafting Note: The drafters chose a whole life initial expense allowance for several reasons. Although highly flexible, universal life insurance is generally considered a permanent life insurance plan. Most companies encourage a premium level which will provide lifetime insurance protection. Every universal life insurance policy of which the drafters are aware has a "net level premium" that could be computed which would guarantee permanent protection. As a result, it is expected that most universal life insurance policies will be sold as permanent plans.

Traditional whole life insurance, which is accorded a permanent plan expense allowance by the Standard Nonforfeiture Law (SNFL), is much more flexible than is often realized. Premiums may be stopped with term coverage resulting, policy loans can result in "stop and go" premiums, or an arrangement to use available dividends to pay premiums can be effected, all without the permanent plan expense allowance being affected. The SNFL does not require cash values for many forms of term insurance. All other permanent plans develop an expense allowance greater than that for whole life insurance under the SNFL.

The alternative of basing the initial expense allowance on a policyowner's "planned premium" was considered but rejected as artificial and subject to substantial manipulation by agents and/or insurers.

B. Minimum Cash Surrender Values for Fixed Premium Universal Life Insurance Policies

For fixed premium universal life insurance policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to [(A)-(B)-(C)-(D)], where:

(A) is the present value of all future guaranteed benefits.

(B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in [Sections 5 and 5-a or in paragraph (1) of Section 5-c], as applicable, of [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980]. If Section 5-c, paragraph (l) is applicable, the nonforfeiture net level premium is equal to the quantity $\frac{PVFB}{a_x}$,

where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

a_x is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(C) is the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. a_x shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(D) is the sum of any quantities analogous to (B) which arise because of structural changes[5] in the policy.

Future guaranteed benefits are determined by (1) projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (i) an interest rate (or rates) specified by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year and (ii) the mortality rates specified by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980] for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose.

Drafting Note: The types of quantities included in Subsection C are increased current interest rate credits guaranteed for a future period, decreased current mortality rate charges guaranteed for a future period, or decreased current expense charges guaranteed for a future period.

C. Minimum Paid-Up Nonforfeiture Benefits

If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policyowner as (1) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value, or (2) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by [the Standard Nonforfeiture Law for Life Insurance, as amended in 1980]. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

Drafting Note: it is possible that policies will have secondary guarantees. Such guarantees should be taken into consideration when computing minimum paid-up nonforfeiture benefits.

To preserve equity between policies on a premium paying basis and on a paid-up basis, present values must comply with Section 6A for flexible premium universal life insurance policies and with Section 6B for fixed premium policies.

Ever since the adoption of the original Standard Nonforfeiture Law (SNFL) in 1942, provision has been made for nonforfeiture calculations on the basis of substandard mortality. (See Sections 5, 5-a, and 5-c of SNFL.) While this provision has been used infrequently in the past, it is anticipated that substandard mortality will be more frequently utilized in universal life insurance, given its flexible nature, to reflect the mortality classification assigned to the policy by the insurer.

A charge may be made at the surrender of the policy provided that the result after the deduction of the charge is not less than the minimum cash surrender value required by this section.

Section 7. Mandatory Policy Provisions

The policy shall provide the following:

A. Periodic Disclosure to Policyowner

The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report. Specific requirements of this report are detailed in Section 9.

Drafting Note: Fixed premium universal life insurance policies may be required to contain a table of cash surrender or nonforfeiture values, by law. Such a table of values is of little use for a flexible premium policy, since the premiums cannot be determined, and therefore, such table should not be required to be included in the policy. Periodic disclosure to the policyowner is designed to fulfill the purpose of such a table of values, which, because of the nature of universal life insurance, cannot be determined at issue for a flexible premium policy.

B. Current Illustrations

The annual report shall provide notice that the policyholder may request an illustration of current and future benefits and values.

C. Policy Guarantees

The policy shall provide guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy shall be based on guarantees. No figures based on nonguarantees shall be included in the policy.

Drafting Note: Minimum and maximum guarantees are in addition to any index guarantees. If “guaranteed” credits and/or charges are also the “current” credits and/or charges, such amounts may be included in the policy if clearly labeled. The maturity date is not considered a guarantee for purposes of this section.

D. Calculation of Cash Surrender Values

The policy shall contain at least a general description of the calculation of cash surrender values including the following information:

(1) The guaranteed maximum expense charges and loads.

(2) Any limitation on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than twenty-four months.

(3) The guaranteed minimum rate or rates of interest.

(4) The guaranteed maximum mortality charges.

(5) Any other guaranteed charges.

(6) Any surrender or partial withdrawal charges.

E. Changes in Basic Coverage

If the policyowner has the right to change the basic coverage, any limitation on the amount or timing of such change shall be stated in the policy. If the policyowner has the right to increase the basic coverage, the policy shall state whether a new period of contestability and/or suicide is applicable to the additional coverage.

F. Grace Period and Lapse

The policy shall provide for written notice to be sent to the policyowner's last known address at least thirty (30) days prior to termination of coverage.

A flexible premium policy shall provide for a grace period of at least thirty (30) days (or as required by state statute) after lapse. Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value first equals zero.

Drafting Note: Fixed premium policies shall contain a provision providing for a standard grace period as required by state law.

G. Misstatement of Age or Sex

If there is a misstatement of age or sex in the policy, the amount of the death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex. The commissioner may approve other methods which are deemed satisfactory.

H. Maturity Date

If a policy provides for a "maturity date," "end date," or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

Section 8. Disclosure Requirements

Disclosure of information about the policy being applied for shall follow the standards in [insert citation to state equivalent of the Life Insurance Illustrations Model Regulation].

Section 9. Periodic Disclosure to Policyowner

A. Requirements

The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised of the status of the policy. The end of the current report period shall be not more than three (3) months previous to the date of the mailing of the report.

B. The report shall include the following:

(1) The beginning and end of the current report period;

(2) The policy value at the end of the previous report period and at the end of the current report period;

(3) The total amounts which have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);

(4) The current death benefit at the end of the current report period on each life covered by the policy;

(5) The net cash surrender value of the policy as of the end of the current report period;

(6) The amount of outstanding loans, if any, as of the end of the current report period;

(7) For fixed premium policies:

If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report;

(8) For flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

Drafting Note: These are the same standards as required in the Life Insurance Illustrations Model Regulation. A state could refer to that regulation instead of including the standards here.

Section 10. Interest-Indexed Universal Life Insurance Policies

A. Initial Filing Requirements

The following information shall be submitted in connection with any filing of interest-indexed universal life insurance policies ("interest-indexed policies"). All such information received shall be treated confidentially to the extent permitted by law.

(1) A description of how the interest credits are determined, including:

(a) A description of the index;

(b) The relationship between the value of the index and the actual interest rate to be credited;

(c) The frequency and timing of determining the interest rate; and

(d) The allocation of interest credits, if more than one rate of interest applies to different portions of the policy value;

(2) The insurer’s investment policy, which includes a description of the following:

(a) How the insurer addressed the reinvestment risks;

(b) How the insurer plans to address the risk of capital loss on cash outflows;

(c) How the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities;

(d) How the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy;

(e) The amount and type of assets currently held for interest indexed policies;

(f) The amount and type of assets expected to be acquired in the future;

(3) If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.

(4) A description of any interest guarantee in addition to or in lieu of the index.

(5) A description of any maximum premium limitations and the conditions under which they apply.

B. Additional Filing Requirements

(1) Annually, every insurer shall submit a Statement of Actuarial Opinion by the insurer’s actuary similar to the example contained in Section 10C.

(2) Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.

(3) Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer’s investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (i.e., any change in the information supplied in Section A above) or if it would significantly change the amount or type of assets held for interest-indexed policies.

Drafting Note: Interest-indexed products present unique aspects which, due to the unknown future values of the index, are not precisely addressed by current valuation laws. The drafters have considered and rejected approaches to valuation which would require the setting of arbitrary reserves and/or the arbitrary dedication of specific amounts of surplus as being neither logical nor workable. In requiring the filing and evaluation of the above items, together with an annual actuarial opinion, the drafters have attempted to preserve the basic principle of the valuation laws, which is to maintain the ability of the insurer to meet its future contractual obligations.

It is assumed that the evaluation of the information provided in this Section together with the experience of insurers in writing indexed forms will lead to a more scientific approach to valuation in the future.

The drafters believe that by focusing attention on cash flows and the quality and quantity of assets supporting indexed policy liabilities, most of the risks associated with indexed products can be addressed by insurers and regulators in a manner which will provide adequate protection to the public while permitting experimentation and diversity in minimizing the uncertainty associated with the valuation of these products.

C. Statement of Actuarial Opinion for Interest-Indexed Universal Life Insurance Policies

I,____, am ____

(Name) (position or relationship to Insurer)

for the XYZ Life Insurance Company (The Insurer) in the state of ______________________________.

(State of Domicile of Insurer)

I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial opinions).

I have examined the interest-indexed universal life insurance policies of the Insurer in force as of December 31, 20XX, encompassing _______ number of policies and $__________ of insurance in force.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the Insurer as they affect future insurance and investment cash flows under such policies and related assets. My examination included such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the Insurer and on projected investment cash flows as provided by __________________________, Chief Investment Officer of the Insurer.[6]

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates.

In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the Insurer under these insurance policies.

____

Signature of Actuary

Drafting Note: The American Academy of Actuaries has offered to prepare appropriate guidelines which will delineate the various responsibilities of the actuary in signing the Statement of Actuarial Opinion included in this regulation. Upon publication, these guidelines will become a part of the body of actuarial literature which describes Generally Accepted Actuarial Principles and Practice.

If the actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force, an appropriate statement of such reliance should be included here.

Endnotes:

1. The maturity amount shall be the initial death benefit where the death benefit is level over the lifetime of the policy except for the existence of a minimum-death-benefit corridor, or shall be the specified amount where the death benefit equals a specified amount plus the policy value or cash surrender value except for the existence of a minimum-death-benefit corridor.

2. The Guaranteed Maturity Premium for both flexible and fixed premium policies shall be adjusted for death benefit corridors provided by the policy. The Guaranteed Maturity Premium may be less than the premium necessary to pay all charges. This can especially happen in the first year for policies with large first year expense charges.

3. Structural changes are those changes which are separate from the automatic workings of the policy. Such changes usually would be initiated by the policyholder and include changes in the guaranteed benefits, changes in latest maturity date, or changes in allowable premium payment period. For valuations on or after January 1, 1987, for fixed premium universal life policies with redetermination of all credits and charges no more frequently than annually, on policy anniversaries, structural changes also include changes in guaranteed benefits, or in fixed premiums, unanticipated by the guaranteed maturity premium for such policies at the date of issue, even if such changes arise from automatic workings of the policy. The recomputation of (B) above, for fixed premium universal life structural changes, shall exclude from PVFB, the present value of future guaranteed benefits, those guaranteed benefits which are funded by the excess of the insurer's declared guarantees of interest, mortality and expenses, over the guarantees contained in the policy at the date of issue.

4. Because this product is still developing, it is recommended that benefit charges not be restricted and regulatory treatment of cash values be limited to that contained in this section for several reasons. First, further restrictions would limit the development of the product. Second, added restrictions would discourage insurers from reducing non-guaranteed current benefit charges because such reductions could require reduced future benefit charges that could be financially unsound for the insurer. Third, market pressures will encourage insurers to limit benefit charges.

5. See footnote 3.

6. If the actuary does not choose to rely on an investment officer for the projected investment cash flows, this statement should be modified to show the extent of the actuary's reliance.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1984 Proc. I 6, 31, 376, 514, 515-526 (adopted).
1988 Proc. I 9, 19-20, 494, 599-600, 627 (adopted change to footnote 3).
1989 Proc. II 13, 23, 414-415, 428-429, 431-442 (amended to include consumer disclosure requirement).
1990 Proc. I 6, 27, 438-439, 450-451, 453-463 (amended).
2000 Proc. 3rd Quarter 13, 14, 88, 116, 119-135 (amended and reprinted).

UNIVERSAL LIFE INSURANCE MODEL REGULATION

This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

This page is intentionally left blank

UNIVERSAL LIFE INSURANCE MODEL REGULATION

KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner.**

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY	
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	ARK. CODE R. 34 (1985).	
California	NO CURRENT ACTIVITY	
Colorado	NO CURRENT ACTIVITY	
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida	FLA. ADMIN. CODE ANN. r. 69O-164.010 (1994/2003) (portions of model).	
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	

UNIVERSAL LIFE INSURANCE MODEL REGULATION

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois	ILL. ADMIN. CODE tit. 50, §§ 1411.10 to 1411.60 (2004).	
Indiana	BULLETIN 137 (April 10, 2006).	
Iowa	IOWA ADMIN. CODE r. 191.92-1 to 191.92-10 (2005).	
Kansas	KAN. ADMIN. REGS. § 40-15b-1 (1985/1998).	
Kentucky	NO CURRENT ACTIVITY	
Louisiana	LA. ADMIN. CODE tit. 37, §§ XIII.8501 to XIII.8517 (Regulation 36) (1985).	
Maine	NO CURRENT ACTIVITY	
Maryland	MD. CODE REGS. 31.09.15.01 to 31.09.15.13 (2010).	BULLETIN 2010-37 (2010).
Massachusetts	NO CURRENT ACTIVITY	
Michigan	MICH. COMP. LAWS § 500.837; § 500.2236a; § 500.4001; §§ 500.4037 to 500.4038; § 500.4061 (1994); BULLETIN 95-04 (1995).	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	MISS. CODE R. § 84-106 (1984).	
Missouri	MO. CODE REGS. ANN. tit. 20, § 400-1.100 (1985/2001).	
Montana	NO CURRENT ACTIVITY	
Nebraska	210 NEB. ADMIN. CODE § 40 (1984/2008).	

UNIVERSAL LIFE INSURANCE MODEL REGULATION

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Nevada	NO CURRENT ACTIVITY	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	13 N.M. CODE R. §§ 9.7.1 to 9.7.17 (1985).	
New York	NO CURRENT ACTIVITY	
North Carolina	NO CURRENT ACTIVITY	
North Dakota	N.D. ADMIN. CODE §§ 45-04-05-01 to 45-04-05-09 (1985/1986).	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	OHIO ADMIN. CODE § 3901-6-07 (1997/2013).	
Oklahoma	OKLA. ADMIN. CODE §§ 365:10-5-80 to 365:10-5-86 (1985/1992).	
Oregon	NO CURRENT ACTIVITY	
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico		Circular Letter No. AV-III-8-886-82 (1982).
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota	NO CURRENT ACTIVITY	
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	
Vermont	NO CURRENT ACTIVITY	

UNIVERSAL LIFE INSURANCE MODEL REGULATION

NAIC MEMBER	**MODEL ADOPTION**	**RELATED STATE ACTIVITY**
Virgin Islands	NO CURRENT ACTIVITY	
Virginia		VA. CODE ANN. § 38.2-3117 (Gives commissioner authority to establish universal life standards) (1986).
Washington	WASH. ADMIN. CODE 284-84-010 to 284-84-110 (1985).	
West Virginia	NO CURRENT ACTIVITY	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	WYO. CODE R. § 40 (1984/1985).	

UNIVERSAL LIFE INSURANCE MODEL REGULATION

Proceeding Citations

Cited to the Proceedings of the NAIC

This model began its development when an interested party gave a brief description of the background and concern of the new so-called "Universal Life" products to the NAIC Life Insurance (A) Committee. It was reported that several states had prepared regulations or guidelines, and that the industry felt a strong need for uniformity between states. A task force with an industry advisory committee was appointed. **1982 Proc. II 355.**

The Universal Life Model Regulation was adopted by the task force and forwarded to the parent committee, which was adopted as recommended. The model regulation was forwarded to the Executive Committee, and was then adopted. **1984 Proc. I 6, 31, 376, 514-526.**

The advisory committee recommended that states adopting the Universal Life Model Regulation grant a one-year extension for companies to bring their products into compliance. **1985 Proc. I 560.**

An amendment to Footnote 3 of the model regulation was adopted by the task force, and was also adopted by the parent committee and the Executive committee as recommended. This amendment related to Project 4k "Special Plans – Universal Life – Valuation Problem for Certain Fixed premium Policies." **1988 Proc. I 9, 19-20, 489, 492-494, 599, 627.**

Section 1. Authority

Section 2. Purpose

The Universal Life Insurance (A) Task Force was composed of five to seven members of the NAIC or their designees, with the advisory committee having a like number of individuals from the insurance industry who are knowledgeable of universal life products. The task force was charged with gathering appropriate information and recommendations, holding hearings and developing a Model Universal Life Insurance Regulation. The regulation would address appropriate issues of regulatory concerns, including the following:

1. The manner in which "universal life insurance" plans, as defined, may comply with the standard nonforfeiture and standard valuation laws or the equivalent thereof.

2. The manner in which "universal life insurance" plans and the companies issuing such plans may appropriately anticipate future liabilities to assure the financial integrity of such companies to the extent such anticipation differs from number one above.

3. Any mandatory or prohibited policy design features of such policies.

4. The manner in which prospective purchasers of such plans are fairly and accurately appraised of the nature of such plans and the manner in which existing policyholders under such plans are informed of the nature and status of their purchase.

5. Any other legitimate regulatory concerns affecting the fair and accurate development, marketing and distribution (including replacement) of such life insurance plans; the administration of such life insurance plans; and the reasonable assurance of the financial integrity of those companies issuing such plans. **1982 Proc. II 359-360.**

The Universal Life Task Force had its charge expanded to include the consideration of model regulations and legislation, if needed, regarding general account life insurance and annuity plans which are not directly considered by the standard evaluation and non-forfeiture laws. Examples, in addition to universal life are interest indexed deferred annuities, indeterminate premium life insurance plans, and others not requiring registration as a security. **1983 Proc. I 581.**

Section 3. Definitions

The "definition" section of the model regulation was reviewed with the changes in such definition from the previous draft being noted. A final version of the working definition was agreed upon by the committee. It was noted that the definition section may be further revised in conjunction with the development of the other model regulation sections. **1983 Proc. II 627.**

UNIVERSAL LIFE INSURANCE MODEL REGULATION

Proceeding Citations
Cited to the Proceedings of the NAIC

Section 3 (cont.)

The committee agreed to delete any reference to "single premium" policies from the "fixed premium" policy definition and instead place such reference in the drafting comments to the "fixed premium" definition of the model regulation. It was noted that treatment of the "single premium" policy differs significantly from flexible premium universal life policies under New York law in the area of agent compensation because of Section 213 of the New York insurance laws. **1983 Proc. II 627.**

Section 4. Applicability and Scope

It was noted that to the extent universal life policies differ from the traditional life insurance policies, these differences should be addressed by the model regulation. To the extent the existing model regulations are applicable to universal life insurance, the task force discussed how best to refer to or adopt such other regulations in the current proposal. **1983 Proc. II 627.**

With respect to variable life insurance, the NAIC adopted a new model variable life insurance regulation in December 1982. The Technical Actuarial Group was asked to develop guidelines for use with the new regulation, with the understanding that the group would call upon the Variable Products Advisory Committee. **1983 Proc. II 615.**

Section 5. Valuation

There is considerable interest in [universal life products], and a number of new varieties of plans have recently been developed. The wording of the 1980 version of the model Standard Valuation Law and the model Standard Nonforfeiture Law for Life Insurance contemplated that the commissioners of insurance for the states will issue regulations on these types of life insurance plans. It is hoped that there can be considerable uniformity in such regulations. A model regulation was needed urgently. **1982 Proc. I 349.**

With respect to universal life, the technical actuarial group saw the exposure draft prepared by the advisory committee for the first time on June 12, 1983. The provisions on reserves and cash values were largely developed from work done by an American Council of Life Insurance (ACLI) task force. One matter on which the group had questions was in the calculation of maximum expense allowances to be used in calculating cash values. The group felt it might be too high in some cases.
The ACLI task force was asked to reconsider this expense allowance and either prepare a written justification or else a proposed revision. **1983 Proc. II 615.**

Section 6. Nonforfeiture

There is considerable interest in [universal life products], and a number of new varieties of plans have recently been developed. The wording of the 1980 version of the model Standard Valuation Law and the model Standard Nonforfeiture Law for Life Insurance contemplated that the commissioners of insurance for the states will issue regulations on these types of life insurance plans. It is hoped that there can be considerable uniformity in such regulations. A model regulation was needed urgently. **1982 Proc. I 349.**

Text was submitted on behalf of the Nonforfeiture and Valuation Subgroup. The text was adopted from work of the American Council of Life Insurance on the subject. Such text actually involved two nonforfeiture regulations, one for "fixed premium" and one for "flexible premium" universal life policies. One valuation standard sufficed for both such policy types. **1983 Proc. II 628.**

A report was made on the progress of amendments to the NAIC Universal Life Insurance Model Regulation, consisting of two items: nonforfeiture and valuation. The nonforfeiture provisions of the model were discussed, and with respect to the valuation section, the task force members were referred to the California draft which was discussed by the Actuarial Task Force concerning valuation of universal life insurance plans. **1988 Proc. II 562.**

UNIVERSAL LIFE INSURANCE MODEL REGULATION

Proceeding Citations
Cited to the Proceedings of the NAIC

Section 7. Mandatory Policy Provisions

A letter was submitted to the working group with two comments regarding the amendments to the Universal Life Insurance Model Regulation. The first comment suggested that the drafting note to Section 6A remove the reference to vanishing premiums, since the use of that term is prohibited in the illustrations regulation and should be discouraged in other contexts. In addition, a revision was suggested to Section 7B. This sentence requires that the annual report provide a notice that the policyholder may request an illustration "based on the insurer's present illustrated scale." This is appropriate for policies issued after the state's adoption of the Life Insurance Illustration Model Regulation, but such an illustration is not required for policies issued prior to the effective date of the illustration regulation or those declared not to be used with an illustration. In the alternative it was suggested that the provision be reworded to say: "The annual report shall provide notice that the policyholder may request an illustration of current and future values and benefits." The insurer would look to the illustrations regulation or the disclosure regulation to determine which scale it would use. **2000 Proc. 3rd Qarter 116.**

The working group adopted revisions to the model regulation, including amendments to Section 7B. **2000 Proc. 3rd Quarter 88, 124.**

Section 8. Disclosure Requirements

The American Council of Life Insurance (ACLI) presented a paper on cost disclosure for universal life products. It recommended disclosure of the difference between cost indexes based on the guaranteed and the currently illustrated premiums, death benefits, cash surrender values and endowment amounts. Further, the policy summary should include a statement on the point at which the policy will expire based on the policy guarantees and the anticipated premiums shown in summary. Basically, it summarized that universal life should be treated as a life insurance plan with a nonguaranteed cost element for cost disclosure purposes. **1982 Proc. I 395.**

Commissioner Hager of the Universal & Other Plans (A) Task Force stated that there appeared to be disclosure problems with universal life plans and that the identification of these items should be placed on the Actuarial Task Force agenda. The members present agreed that the disclosure issues extended to variable life as well as universal life. The main concern was that an unsophisticated buyer purchased a policy and did not know what the coverages, benefits and limitations were. It was suggested that Sections 8 and 9(f) of the Universal Life Insurance Model Regulation needed considerable expansion. It was suggested that disclosure requirements be placed in the illustrations section of the models as well as in the contract itself. Some of the items identified which should be disclosed: (1) what is guaranteed versus what is not; (2) adequate disclosure of the fact that a premium quoted will not support the contract for the whole life if the policy is a universal life policy; (3) disclosure of the guaranteed surrender values on a flexible premium policy. **1988 Proc. II 566.**

The Product Development (A) Task Force established a working group on identifying consumer disclosure issues to be chaired by Iowa and to include the states of California, Texas and Massachusetts. The disclosure issue would be coordinated with the Life Cost Disclosure Task Force. **1988 Proc. II 563.**

The Consumer Disclosure Issues Working Group conducted a survey of the states to determine if regulatory problems existed with these products. The working group's aim was to make these disclosures statements easier to understand and to get them into the hands of consumers early enough in the purchase process to aid in making a meaningful comparison. The working group recommended that disclosures should be delivered at the time of application or no later than 15 days thereafter. If disclosure statements were not provided until the time of policy delivery, consumers would receive an additional five-day free-look period. The working group agreed to test-market these disclosure forms for readability. **1989 Proc. II 428.**

An amendment to Section 8 of the model regulation was adopted by the Consumer Disclosure Issues Working Group recommending changes to the NAIC Life Insurance Disclosure Model Regulation and the Universal Life Insurance Model Regulations, as well as the Supplemental Transmittal document, and was adopted by the parent committee and the Executive committee as recommended. This amendment added Appendix A – Disclosure Form to the model regulation. **1989 Proc. II 13, 23, 414, 429, 441-442.**

UNIVERSAL LIFE INSURANCE MODEL REGULATION

Proceeding Citations
Cited to the Proceedings of the NAIC

Section 8 (cont.)

The Consumer Disclosure Issues (A) Working Group approved the Policy Information For Applicant – Universal Life Policy for inclusion in Appendix A of the Model Regulation, which was adopted by the Product Development Task Force, and was adopted by the parent committee and the Executive committee as recommended. **1990 Proc. I 6, 27, 438, 450-451, 453-463.**

The Life Disclosure Working Group adopted a revised Generally Recognized Expense Table (GRET), which was required by the Life Insurance Illustrations Model Regulation. The recommended effective date for the new GRET is Jan. 1, 2001. In addition, the working group adopted revisions to the Universal Life Insurance Model Regulation. This was the last of four models that the A Committee was charged to revise to be more compatible with the Life Insurance Illustrations Model Regulation. When the Optional Form of the Life Insurance Disclosure Model Regulation with Yield Index was adopted, the group recommended that each time the disclosure regulation was amended the alternative with the yield index should also be amended. When the disclosure regulation was amended, all references to indices were deleted. The working group clarified its intent with regard to the alternative with the yield index by voting to recommend its deletion from the list of official NAIC models laws. **2000 Proc. 3rd Quarter 88.**

The model regulation was amended to eliminate the disclosure provisions of Section 8 and Appendix 10, and instead refer to the Life Insurance Illustrations Model Regulation. **2000 Proc. 3rd Quarter 13, 14, 88, 116, 119-135.**

Section 9. Periodic Disclosure to Policy owner

Commissioner Hager of the Universal & Other Plans (A) Task Force stated that there appeared to be disclosure problems with universal life plans and that the identification of these items should be placed on the Actuarial Task Force agenda. The members present agreed that the disclosure issues extended to variable life as well as universal life. The main concern was that an unsophisticated buyer purchased a policy and did not know what the coverages, benefits and limitations were. It was suggested that Sections 8 and 9(f) of the Universal Life Insurance Model Regulation needed considerable expansion. It was suggested that disclosure requirements be placed in the illustrations section of the models as well as in the contract itself. Some of the items identified which should be disclosed: (1) what is guaranteed versus what is not; (2) adequate disclosure of the fact that a premium quoted will not support the contract for the whole life if the policy is a universal life policy; (3) disclosure of the guaranteed surrender values on a flexible premium policy. **1988 Proc. II 566.**

Section 10. Interest-Indexed Universal Life Insurance Policies

The proposed draft of "Interest-Indexed Universal Life Insurance Policy" text was submitted by Transamerica Occidental Life on behalf of the Interest-Indexed Plans Subgroup. The goal of the subgroup might best be to list filing requirements for insurance departments in the regulation itself and give the rationale for and use of filings in extensive drafting comments. **1983 Proc. II 628.**

The Life and Actuarial Task Force recommended deletion of the Interest-Indexed Project 4D, which was adopted by the Universal and Other Plans (A) Task Force. **1988 Proc. II 562-563.**

Chronological Summary of Actions

1984 Proc. I 6, 31, 376, 514, 515-526 (adopted).
1988 Proc. I 9, 19-20, 494, 599-600, 627 (adopted change to footnote 3).
1989 Proc. II 13, 23, 414-415, 428-429, 431-442 (amended to include consumer disclosure requirement).
1990 Proc. I 6, 27, 438-439, 450-451, 453-463 (amended).
2000 Proc. 3rd Quarter 13, 14, 88, 116, 119-135 (amended and reprinted).