



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor  
Theodore K. Nickel, Commissioner

Wisconsin.gov

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**Legal Unit**  
125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 267-9586 • Fax: (608) 264-6228  
Web Address: oci.wi.gov

## REPORT ON Section Ins 2.30, Wis. Adm. Code, relating to 2012 Individual Annuity Reserving Mortality Table

### **Clearinghouse Rule No. 14-076**

Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

#### **(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:**

OCI, by rule, determines the minimum standard for valuation of individual annuity and pure endowment contracts by establishing mortality tables to be used by insurers to calculate minimum reserves. Under the current permanent rule insurers are required to use the 2000 Mortality Table, which has become outdated. The proposed rule, which follows an emergency rule OCI enacted in December, would require insurers to use the 2012 Individual Annuity Reserving Mortality Table (2012 IAR Table) when determining the minimum standard of valuation for individual annuity and pure endowment contract.

The 2012 IAR Table is beneficial to the both the insurers and consumers in Wisconsin in the following ways:

- 1) First, the 2012 IAR Table provides insurers with a more accurate tool for calculating minimum reserves. The 2012 IAR Table accounts for the fact that people purchasing annuities are living longer and enables insurers to maintain appropriate reserves by increasing the level of reserves held by insurers.
- 2) The addition of a projection scale to the 2012 IAR Table also allows the table to remain up-to-date over a longer period of time because it allows the table to adjust and consider the most accurate data during each valuation year. Not only does this addition ensure more accurate reserve levels by accounting for the most accurate data, but it also reduces the frequency in which new mortality tables (and rules) need to be adopted. Accordingly, this will increase efficiency and help OCI and insurers avoid various costs associated with implementing new administrative rules.
- 3) The 2012 IAR Table has been recommended by the National Association of Insurance Commissioners (NAIC) and is in the process of being adopted in other states. Accordingly, as the proposed rule is based on a NAIC model rule being adopted in a majority of states, insurers operating in multiple states will benefit from the uniformity resulting from the proposed rule.

The amendments to s. Ins 2.13 (6) (d) 2., Wis. Adm. Code, were made to ensure accurate cross references.

**(b) Summary of the public comments and the agency's responses to those comments:**

**Comment:**

Northwest Mutual (NM) expressed support for the proposed rule through testimony and in writing. NM believes that use of the 2012 IAR Table will result in a more appropriate level of reserves. Moreover, the addition of projection factors in the new table will allow the table to remain current over a longer period of time, which will reduce the costs for insurers, OCI, and consumers as a result of a reduced need to redesign, file, review, and implement new products. Finally, NM stated that they support state-based regulation and uniformity on issues such as this one. They noted that over half of the states have adopted the 2012 IAR Table with a January 1, 2015 effective date and expressed their support for OCI to do the same.

Response:

OCI's proposed rule will provide for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016.

**Comment:**

Thrivent Financial expressed support for the proposed rule (and the previously enacted emergency rule) in writing, however, with a modification providing for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016. While 27 states have adopted the 2012 IAR Table, Thrivent expressed concern that domestic carriers in the states that have not adopted the 2012 IAR Table may gain a competitive advantage since they will not need to increase reserves and consequently reduce their annuity payout rates until the 2012 IAR Table is adopted in their state. Finally, Thrivent noted that Iowa recently adopted an amended their rule to permit optional use of the 2012 IAR Table in 2015 and mandatory use in 2016. Accordingly, Thrivent urges OCI to adopt the following amendment to the proposed rule:

Ins 2.30(3)(cm) Except as provided in par. (d) the 2012 IAR Table ~~shall~~ may be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. For any individual annuity or pure endowment contract issued on or after January 1, 2016, the 2012 IAR Table shall be used.

Response:

OCI will modify the proposed rule to allow for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016.

**Comment:**

The Wisconsin Council of Life Insurers (WCLI) expressed support for the proposed rule through testimony and in writing; however, they also expressed

concern that companies domiciled in states that have not adopted the 2012 IAR Table may gain a competitive advantage. Accordingly, they also urge OCI to modify the proposed rule to allow for optional use of the 2012 IAR Table in 2015 and mandatory uses in 2016 by adopting the same amendment proposed by Thrivent above.

In response to an early concern expressed to WCLI that the amendment would prevent the recognition of the 2012 IAR Table for federal tax purposes, WCLI takes the position that they do not believe this to be the case under federal law. WCLI reasons:

Federal tax law provides that an insurers reserve is computed using the prevailing table. 26 U.S. Code § 807. "Prevailing" tables are defined as the most recent CSO tables prescribed by the NAIC "which are permitted to be used in computing reserves...under the insurance laws of at least 26 states when the contract is issued." 26 U.S. § 807(d)(5)(A). Consequently, it appears that CSO tables can still be "prevailing" for tax purposes even if they are just "permitted to be used" by 26 states. Twenty seven states permit the use of the 2012 IAR Table.

Therefore, WCLI believes that this amendment will not affect the recognition of the 2012 IAR Table since 27 states permit its use, even though only 25 would be mandatory.

Response:

OCI will modify the proposed rule to allow for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016.

**(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:**

Based on the comments OCI received from the public, OCI will revise s. Ins 2.30 (3) (cm) of the proposed rule to allow for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016. The revision will be as follows:

Ins 2.30(3)(cm) Except as provided in par. (d) the 2012 IAR Table ~~shall~~ may be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. For any individual annuity or pure endowment contract issued on or after January 1, 2016, the 2012 IAR Table shall be used.

**(d) Persons who appeared or registered regarding the proposed rule:**

**Appearances for:**

Greg Gurlik (representing Northwestern Mutual)  
Connie O'Connell (representing the Wisconsin Council of Life Insurers)

**Appearances against:**

None

**Appearances for information:**

None

**Registration for:**

None

**Registration against:**

None

**Registration neither for nor against:**

None

**Letters received:**

Susan Oberman Smith (on behalf of Thrivent Financial)

Greg Gurlik (on behalf of Northwestern Mutual)

Connie O'Connell (on behalf of the Wisconsin Council of Life Insurers)

**(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.**

OCI updated the plain language analysis to reflect the changes made to s. Ins 2.30 (3) (cm) of the proposed rule, which was revised after comments from the public to allow for optional use of the 2012 IAR Table in 2015 and mandatory use in 2016.

**(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:**

OCI complied with and corrected all comments.

**(g) The response to the report prepared by the small business regulatory review board:**

The small business regulatory review board did not prepare a report.

**(h) Final Regulatory Flexibility Analysis**

A Final Regulatory Flexibility Analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

**(i) Fiscal Effect**

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations  
January 21, 2015