

Clearinghouse Rule 14-076

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the emergency rule being issued on December 29, 2014 and the adoption of the attached proposed rulemaking order affecting Section Ins 2.30, Wis. Adm. Code, relating to 2012 Individual Annuity Reserving Mortality Table and affecting small business.

**HEARING INFORMATION**

**Date: January 23, 2015**

**Time: 10:00 a.m., or as soon thereafter as the matter may be reached**

**Place: OCI, Room 227, 125 South Webster St 2<sup>nd</sup> Floor, Madison, WI**

Written comments can be mailed to:

Richard B. Wicka  
Legal Unit - OCI Rule Comment for Rule Ins 08614  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

Richard B. Wicka  
Legal Unit - OCI Rule Comment for Rule Ins 08614  
Office of the Commissioner of Insurance  
125 South Webster St - 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Comments can be emailed to:

Richard B. Wicka  
richard.wicka@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on February 6, 2015.

**SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

**INITIAL REGULATORY FLEXIBILITY ANALYSIS**

Notice is hereby further given that pursuant to s. 227.114, Wis. Stat., the proposed rule may have an effect on small businesses. The initial regulatory flexibility analysis is as follows:

**a. Types of small businesses affected:**

Life insurers licensed in Wisconsin.

**b. Description of reporting and bookkeeping procedures required:**

None beyond those currently required.

**c. Description of professional skills required:**

None beyond those currently required.

**OCI SMALL BUSINESS REGULATORY COORDINATOR**

The OCI small business coordinator is Louis Cornelius and may be reached at phone number (608) 266-7843 or at email address [Louie.Cornelius@wisconsin.gov](mailto:Louie.Cornelius@wisconsin.gov)

**CONTACT PERSON**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov), (608) 264-8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

## PROPOSED ORDER AMENDING AND CREATING A RULE

### Office of the Commissioner of Insurance

**Rule No.** Agency 145 – Ins 2.30 (2) (f) to (j), 2.30 (3) (c), 2.30 (cm), and 2.30 (3m), Wis. Adm. Code.

The Commissioner of Insurance proposes an order to amend s. Ins 2.30 (3) (c); and to create ss. Ins 2.30 (2) (f) to (j), 2.30 (cm), and 2.30 (3m), Wis. Adm. Code, relating to 2012 Individual Annuity Reserving Mortality Table and Affecting Small Business.

The statement of scope for this rule SS: 086-14, was approved by the Governor on July 14, 2014, published in Register No. 705, on September 14, 2014, and approved by the Commissioner on September 26, 2014.

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### ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

#### 1. Statutes interpreted:

ss. 600.01, 601.41 (3), 601.42, 623.06, and 632.43, Wis. Stats.

#### 2. Statutory authority:

ss. 601.41 (3), 601.42 (3), and 623.06 (2a) (b) and (4m), Wis. Stats.

#### 3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Wis. Stat., and as provided under ss. 227.11 (2) (a) and 601.41 (3), Wis. Stat. Further, under ss. 623.06 (2a) (b) and (4m), Wis. Stat., the Commissioner has specific authority to determine the minimum standard for the valuation of individual annuity and pure endowment contracts by establishing mortality tables to be used by insurers to calculate minimum reserves and requirements related to the testing and reporting of actuarial information.

#### 4. Related statutes or rules:

The proposed rule relates to existing rules prescribing valuation of liabilities, non-forfeiture values, and actuarial reporting and analysis under ss. 601.42, 623.06 and 632.43, Stats., and ss. Ins 2.80 and ch. 50, Wis. Adm. Code.

#### 5. The plain language analysis and summary of the proposed rule:

The proposed rule would require life 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 contracts issued on or after January 1, 2015. The proposed rule would modernize an outdated table that risks leaving insurers with an insufficient level of reserves. The 2012 IAR Table is comprised of a basic experience table with margins (2012 IAM Period Table) and a projection scale. The addition of a projection scale to the 2012 IAR Table allows the Table to remain up-to-date over a longer period of time because it allows the Table to adjust by considering the most accurate statistics during each valuation year.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The office is unaware of any proposed or existing federal regulation that is intended to address the activities to be regulated by this proposed rule.

**7. Comparison of similar rules in adjacent states as found by OCI:**

**Illinois:** 50 Ill. Adm. Code 935 was adopted on June 20, 2014 and becomes effective January 1, 2015. This rule closely resembles Wisconsin's proposed rule by adopting the 2012 IAR Table in determining the minimum standard of valuation of annuity and pure endowment contracts.

**Iowa:** 191 IAC 43.1 to 43.7 closely resembles Wisconsin's proposed rule and incorporates the 2012 IAR Table for determining the minimum standard of valuation for annuity and pure endowment contracts.

**Minnesota:** ch. 2752 closely resembles Wisconsin's proposed rule and incorporates the 2012 IAR Table for determining the minimum standard of valuation for annuity and pure endowment contracts.

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

The existing requirements are contained primarily in ss. 623.06 (2a) (b) and (4m), Wis. Stat., s. Ins 2.30 (3), and Subch. V of Ch. 50, Wis. Adm. Code. These provisions establish that mortality tables are to be used by insurers to calculate minimum reserves and establish requirements related to testing and reporting of actuarial information. Current rules require insurers to use the Annuity 2000 Mortality Table as adopted by the NAIC. The proposed rule will require insurers to use the 2012 IAR Table as adopted by the NAIC in December 2012 for calculating the minimum reserves on contracts written on or after January 1, 2015. The proposed rule is being considered as it has been recommended by the NAIC and is in the process of being adopted by other states. Further, not adopting the 2012 IAR Table may place domestic insurers at a competitive disadvantage compared to insurers from states where the table has been adopted.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

The proposed rule would have an impact on life insurers, however based on revenue and ownership structure very few, if any, life insurers meet the definition of small businesses. In addition, many of the potential implementation and compliance costs are mitigated by other factors contained in the proposed rule. Therefore, any economic impact on small businesses posed by the proposed rule would not be significant.

**10. See the attached Private Sector Fiscal Analysis.**

This rule change will have no significant effect on the private sector regulated by OCI.

**11. A description of the Effect on Small Business:**

This rule will have little or no effect on small business since very few, if any, life insurers meet the definition of a small business. In addition, many of the implementation and compliance costs are mitigated by other factors contained in the proposed rule. First, insurers already have the systems in place perform the calculations, they primarily just need to substitute in new numbers and equations. Moreover, the 2012 IAR Table will only apply to contracts issued on or after January 1, 2015, which provides insurers with the opportunity to minimize any economic impact by adjusting their products. Finally, with a majority of states on the verge of adopting the 2012 IAR Table, insurers will be able to avoid excess federal taxes on reserves held in excess of the current federally recognized mortality table.

**12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: **<http://oci.wi.gov/ocirules.htm>** or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110  
Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)  
Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474  
Mail: PO Box 7873, Madison, WI 53707-7873

**13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Richard B. Wicka  
Legal Unit - OCI Rule Comment for Rule Ins 08614  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Street address:

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Email address:

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[richard.wicka@wisconsin.gov](mailto:richard.wicka@wisconsin.gov)

Web site: **<http://oci.wi.gov/ocirules.htm>**

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**The proposed rule changes are:**

**SECTION 1. Ins 2.30 (2) (f) to (j) are created to read:**

**Ins 2.30 (2) (f)** “Period table” means a table of mortality rates applicable to a given calendar year (the Period).

**(g)** “Generational mortality table” means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period table and a projection scale containing rates of mortality improvement.

**(h)** “2012 IAR Table” means that generational mortality table developed by the society of actuaries committee on life insurance research and containing rates,  $q_{x2012+n}$ , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in Section 3m.

**(i)** “2012 Individual Annuity Mortality Period Life Table” or “2012 IAM Period Table” means the Period Table containing loaded mortality rates for calendar year 2012. This table contains rates,  $q_{x2012}$ , developed by the society of actuaries committee on life insurance research, and published in the 2012 proceedings of the NAIC, Fall Volume I, pages 149-150.

**(j)** “Projection Scale G2” or “Scale G2” is a table of annual rates,  $G2_x$ , of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the society of actuaries committee on life insurance research, and published in the 2012 proceedings of the NAIC, Fall Volume I, pages 151-152.

**SECTION 2. Ins 2.30 (3) (c) is amended to read:**

**Ins 2.30 (3) (c)** Except as provided in par. (d) the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999, but before January 1, 2015.

**SECTION 3. Ins 2.30 (3) (cm) is created to read:**

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

**SECTION 4. Section Ins 2.30 (3m) is created to read:**

**Ins 2.30 (3m)** Application of the 2012 IAR Table

In using the 2012 IAR Table, the mortality rate for a person age  $x$  in year  $(2012 + n)$  is calculated as follows:

$$q_x^{2012+n} = q_x^{2012} * (1 - G2_x)^n$$

The resulting  $q_x$  2012+n shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate. For example, for a male age 30,  $q_x$  2012 = 0.741.

$qx_{2013} = 0.741 * (1 - 0.010) ^ 1 = 0.73359$ , which is rounded to 0.734.

$qx_{2014} = 0.741 * (1 - 0.010) ^ 2 = 0.7262541$ , which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate  $qx_{2014}$  as  $qx_{2013} * (1 - 0.010)$ , or  $0.734 * 0.99 = 0.727$ . It is incorrect to use the already rounded  $qx_{2013}$  to calculate  $qx_{2014}$ .

**SECTION 5. INITIAL APPLICABILITY.** These changes apply to contracts issued on or after January 1, 2015.

**SECTION 6. EFFECTIVE DATE.** These changes will take effect on the first day of the month after publication, as provided in s. 227.22 (2) (intro.), Wis. Stats.

Dated at Madison, Wisconsin, this 22nd day of December, 2014.

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Theodore K. Nickel  
Commissioner of Insurance

**Office of the Commissioner of Insurance**  
**Private Sector Fiscal Analysis**

for Section Ins 2.30 relating to 2012 Individual Annuity Reserving  
Mortality Table and Affecting Small Business

This rule change will have no significant effect on the private sector regulated by OCI.



**ADMINISTRATIVE RULES – FISCAL ESTIMATE**

1. **Fiscal Estimate Version**

Original  Updated  Corrected

2. Administrative Rule Chapter Title and Number

**INS 08614**

3. Subject

2012 Individual Annuity Reserving Mortality Table

4. **State Fiscal Effect:**

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No May be possible to absorb within agency's budget.
		<input type="checkbox"/> Decrease Costs

5. Fund Sources Affected:

GPR  FED  PRO  PRS  SEG  SEG-S

6. Affected Ch. 20, Stats. Appropriations:

None

7. **Local Government Fiscal Effect:**

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Decrease Costs

8. Local Government Units Affected:

Towns  Villages  Cities  Counties  School Districts  WTCS Districts  Others:

9. **Private Sector Fiscal Effect (small businesses only):**

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No May have significant economic impact on a substantial number of small businesses
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No May have significant economic impact on a substantial number of small businesses	<input type="checkbox"/> Decrease Costs

10. Types of Small Businesses Affected:

Life insurers that meet the definition of small businesses.

11. Fiscal Analysis Summary

12. Long-Range Fiscal Implications

None

13. Name - Prepared by Timothy L. Cornelius	Telephone Number (608) 264-8622	Date 11/03/2014
14. Name – Analyst Reviewer	Telephone Number	Date
Signature—Secretary or Designee	Telephone Number (608) 267-3782	Date 12/22/2014