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ADVISORY OPINION 2023-03

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("Department"), on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL LICENSEES AND PERSONS AUTHORIZED TO TRANSACT LIFE INSURANCE BUSINESS IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: TERM & UNIVERSAL LIFE INSURANCE RESERVE FINANCING

DATE: February 17, 2023

Effective Date

This advisory opinion is effective immediately.

Purpose

This advisory opinion is intended to explain the reporting of reserve financing transactions specific to XXX term life insurance business or AXXX universal life with secondary guarantees business to the Commonwealth of Kentucky Department of Insurance ("Department"). This advisory opinion also clarifies the consideration of actuarial guidelines set forth in the NAIC's Accounting Practices and Procedures Manual and Valuation Manual, pursuant to the filing requirements of Kentucky Revised Statutes ("KRS") 304.3-241, 304.5-140, KRS 304.6-130 to KRS 304.6-180, and KRS 304.15-410.

Interpretation

Effective immediately, and in accordance with KRS 304.6-151 and KRS 304.15-410, the Department will consult the NAIC's *Actuarial Guideline XLVIII – Actuarial Opinion & Memorandum Requirements for the Reinsurance of Policies Required to be Valued Under Sections 6 & 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (MO #830)* ("Actuarial Guideline XLVIII") when reviewing life insurance reserve financing.

Actuarial Guideline XLVIII became part of the NAIC Accounting Practices and Procedures Manual through Appendix C, effective January 1, 2015. To ensure uniformity of treatment between states, companies, and ceded policies, whether governed by *Actuarial Guideline XLVIII* or NAIC Term & Universal Life Insurance Reserve Financing Model Regulation #787 (“MO787”), and to avoid confusion, *Actuarial Guideline XLVIII* was updated effective January 1, 2017, to make it as substantively identical to MO787 as possible. MO787 became an accreditation standard, effective September 1, 2022.

MO787 establishes uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security, are held by or on behalf of ceding insurers in the forms and amounts required.

The Department will utilize *Actuarial Guideline XLVIII*, as set forth in the NAIC’s Accounting Practices and Procedures Manual and Valuation Manual, for the purposes of determining which actuarial guidelines are available to use when reporting pursuant to KRS 304.5-140. ‘Valuation manual’ is defined in KRS 304.6-131 as “the manual of valuation instructions adopted by the NAIC and any subsequent amendments.” Companies shall use the valuation manual and its subsequent amendments when establishing reserves using a principle-based valuation. KRS 304.6-151. The Department will follow *Actuarial Guideline XLVIII* as an amendment to the valuation manual and will also utilize *Actuarial Guideline XLVIII* in assessing the calculation of reserves, pursuant to KRS 304.6-151. Finally, *Actuarial Guideline XLVIII* will be reviewed for the purposes of compliance as well.

Licenses and registered entities are charged with notifying any relevant representatives, including but not limited to their agents and employees, of the Department’s interpretation and all provisions established in compliance with the reserve financing requirements per KRS 304.6-151 and KRS 304.15-410. The Department does not provide legal advice to insurers or entities. This advisory opinion is not new law but is the Department’s interpretation of existing law. The information provided herein has been offered to clarify the Department’s statutory and regulatory authority pursuant to KRS 304.3-241, KRS 304.5-140, KRS 304.6-130 to KRS 304.6-180, and KRS 304.15-410.

Questions regarding this advisory opinion should be directed to the Life Division, Phone (502) 564-6088; Toll Free (800) 595-6053; TTY (800) 648-6056; Fax: (502) 564-2728; or Email: DOI.LifeMail@ky.gov.



Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 17th day of February 2023