

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Actuarial Opinion and Memorandum for Life/Health Insurers

Proposed Amendments: N.J.A.C. 11:1-21A and 11:1-21A Appendix

Proposed Repeals: N.J.A.C. 11:1-21A.4 and 21A.5

Authorized By: Donald Bryan, Acting Commissioner,
Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:23-20 et seq., 17:44B-1 et seq., 17B:18-42, 17B:21-1 and 17:51A-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-22

Submit comments by March 4, 2006 to:

Douglas A. Wheeler
Assistant Commissioner
Legislative and Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
P.O. Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
Email: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 11:1-21A, effective November 20, 1995, requires all insurers and fraternal benefit societies (hereafter collectively referred to as “companies”) transacting life, health and annuities business in this State to annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner of Banking and Insurance (Commissioner) are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with

prior reported amounts, and comply with applicable laws of this State. The rules are based on a model rule adopted by the National Association of Insurance Commissioner (NAIC). Adoption of the model was required for a state to satisfy the NAIC's Financial Regulation and Accreditation standards beginning January 1, 1996.

Since the time the rules were originally adopted, the NAIC has adopted changes to its model rule. The Department now proposes amendments to its rules to incorporate certain changes in the new NAIC model, as well as to reflect various changes to citations in this State's law and to make other clarifying changes as a matter of form. Several of these changes are also required for a state insurance department to maintain accreditation by the NAIC beginning in 2009. In general, the exemption from providing an opinion with an asset adequacy analysis is proposed to be deleted (all companies will be required to provide an opinion with an asset adequacy analysis), and the opinion must include a regulatory asset issues summary.

Amendments are proposed to N.J.A.C. 11:1-21A.1 to eliminate references to companies that are exempted from performing an asset adequacy analysis, to reflect the recodification of various sections of the rules, and to make other changes as a matter of form.

Amendments are proposed to N.J.A.C. 11:1-21A.2 to modify definitions to reflect the elimination of the exemption for the performance of an asset adequacy analysis and reference to the sections of the rules related thereto, and to make other changes to statutory references and other modifications as a matter of form.

In addition, the definition of "non-investment grade bonds" is deleted as no longer necessary because references in the rules have been deleted. The references in the rules relate to sections dealing with a determination of whether a company is required to file an actuarial opinion with an asset adequacy analysis. As the proposed amendments require all companies to

include an asset adequacy analysis, those sections are proposed to be deleted, and the definition thus is no longer needed.

Amendments are proposed to N.J.A.C. 11:1-21A.3 to eliminate references to the sections of the rule relating to companies exempt from performing an asset adequacy analysis and to appropriately recodify references to other sections of the rules. Subsection (d), recodified from subsection (f), is proposed to be amended to clarify that an “appointed actuary” is a qualified actuary appointed or retained to prepare the statement of actuarial opinion by someone other than the qualified actuary. Subsection (f), recodified from subsection (h), is revised to provide that the statement of actuarial opinion applies to all in-force business on the statement date, whether directly issued or assumed. This subsection, as well as other subsections, have been revised to make clarifying changes with respect to references to exhibits in the appendix which reflect changes to the NAIC annual financial statement currently in use. Subsection (g), recodified from subsection (i), is revised to delete references to establishment of additional reserves for years ending prior to December 31, 1997.

N.J.A.C. 11:1-21A.4 and 21A.5 are proposed to be repealed as no longer necessary since these sections relate to statements of actuarial opinion where no asset adequacy analysis is required to be performed.

N.J.A.C. 11:1-21A.4, recodified from N.J.A.C. 11:1-21A.6, is proposed to be amended to eliminate the requirement that certain statements be tracked verbatim, but rather to permit actuarial opinions to contain statements substantially similar to or “such as” the statements provided in the rules. Changes are also proposed with respect to the types of statements required to be provided to simplify and clarify the required statements and as a matter of form.

In addition, the required statement in subparagraph (b)6ii may be omitted for a company domiciled in this State and doing business only in this State if the Commissioner approves the omission as set forth in subsection (f), described below. The requirement that the opinion be dated is also proposed to be added at N.J.A.C. 11:1-21A.4(b)6vi to reflect the NAIC model requirements.

Subsection (e) is proposed to be amended to provide that if the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the opinion, the opinion should indicate the persons the actuary relied upon and should identify the items subject to reliance. In addition, the proposed amendment requires that the persons on whom the appointed actuary relied provide a certification that identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable of the items.

A new subsection (f) is proposed to provide the basis upon which the Commissioner may permit a company to omit the requirement in subparagraph (b)6ii, including: the size of the company as measured by its admitted assets; the company's capital and surplus in relation to its admitted assets; and the percentage of total liability associated with universal or interest-sensitive life insurance, annuities and other deposit contracts.

N.J.A.C. 11:1-21A.5, recodified from 11:1-21A.7, is proposed to be amended at new subsection (e) to require the appointed actuary to prepare a regulatory asset adequacy issue summary, which meets the requirement in proposed subsections (g) and (h). In addition, subsection (f), recodified from subsection (e), is proposed to be amended to require the actuary in the memorandum to identify any explicit or implied guarantees made by the general account

in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and documentation of assumptions to test reserves for specified items.

N.J.A.C. 11:1-21A.5(f)1 is proposed to be amended to include a new paragraph (f)1vii to provide that the memorandum shall specify documentation of assumptions to test reserves for various listed items, including, but not limited to, lapse rates, interest crediting rate strategy, mortality and morbidity. N.J.A.C. 11:11:1-21A.5(f)2 is proposed to be amended to include a new subparagraph (f)2v to provide that the memorandum shall specify the documentation of assumptions made for various items, including default costs, bond call function and mortgage payment function. N.J.A.C. 11:1-21A.5(f)3 is proposed to be amended: to provide that the rationale for degree of rigor in analyzing different blocks of business shall include the level of “materiality” that was used in determining how rigorously to analyze different blocks of business; the criteria for determining asset adequacy shall include the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions”; whether the impact of Federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis; a summary of material changes in methods, procedures or assumptions for the prior year’s asset adequacy analysis; and a summary of results. These proposed amendments are intended to reflect the current NAIC model and thus they reflect the current national standard.

In addition, various clarifying amendments to statutory citations to the “Open Public Records Act” are made as a matter of form.

Existing N.J.A.C. 11:1-21A.8(a) and (b) are proposed to be deleted as is existing subsection (d). N.J.A.C. 11:1-21A.8(a) sets forth requirements for the aggregation of reserves.

N.J.A.C. 11:1-21A.8(b) provides that the appointed actuary shall only analyze those assets held in support of reserves that are the subject for specific analysis, also called specified reserves, and various requirements related thereto, including allocation of assets. N.J.A.C. 11:1-21A.8(d) provide various interest rate scenarios to be considered by the actuary in performing an assets adequacy analysis. These provisions are proposed to be deleted to reflect the current NAIC model. Existing subsection (c) and subsection (e) are proposed to be recodified as N.J.A.C. 11:1-21A.7(j) and (k).

Amendments also are proposed to the Exhibits in the Appendix to the subchapter to reflect the current NAIC model and terminology used in the lines of the annual statement blank referenced, as well as to reflect the proper columns and lines in the annual statement blank.

Finally, amendments are proposed to reflect the correct internal citations to the rules as recodified with the proposed amendments.

A 60-day comment period is provided for this notice of proposal, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments and repeals will enhance the Department's ability under the rules to evaluate a company's financial condition through review of statements of actuarial opinion submitted by a company. The amendments and repeals will more completely reflect the national standard as adopted by the NAIC with respect to statements of actuarial opinion for life/health insurers and fraternal benefit societies. The actuarial opinion will more completely disclose whether, in the actuary's opinion, the company's reserves are adequate in relation to its

outstanding obligations, and determine whether the assets held for all companies in support of those reserves will be adequate to satisfy the company's outstanding obligations. Through these proposed amendments and repeals, the Department will be in a better position to determine whether additional action should be taken pursuant to the laws of this State to help prevent any potential hazardous financial condition. Through these proposed amendments and repeals, therefore, the likelihood that a company will become in a hazardous financial condition or otherwise be unable to satisfy its obligations to policyholders should further be reduced. Similarly, this should reduce the likelihood that the Commissioner will be required to place a company under administrative supervision pursuant to N.J.S.A. 17:51A-1 et seq. or institute delinquency proceedings against such company, along with attendant disruptions and costs to policyholders, other insurers in the market, and the public generally.

Economic Impact

Insurers and fraternal benefit societies doing business in this State will continue to be required to bear any expenses incurred in obtaining the required actuarial opinion prepared by a qualified actuary as required by these proposed amendments and repeals.

Companies previously exempted from performing an asset adequacy analysis will be required to bear additional costs related to the performance of such analyses. These costs would include costs for the particular actuarial service in performing the test. However, the Department believes that while additional costs will be imposed on some companies, the potential additional burden that may be imposed is outweighed by the benefits to be achieved by reducing potential costs and disruptions as outlined in the Social Impact above. The Department does not believe that additional professional staff will be required to comply with these proposed amendments.

The Department does not believe that it will incur additional costs as a result of these proposed amendments and repeals.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and repeals are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that the proposed amendments and repeals will result in any jobs being generated or lost. The proposed amendments and repeals continue to require life/health insurers and fraternal benefit societies to file an actuarial opinion memorandum in accordance with the rules. Existing in-house or appointed actuarial services will continue to be utilized.

The Department invites interested parties to submit any data or studies concerning the jobs impact of the proposed amendments and repeals together with their written comments on other aspects of the proposal.

Agricultural Industry Impact

The proposed amendments and repeals will not have an impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments and repeals may apply to “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and repeals will apply to small businesses that are insurers and fraternal benefit societies domiciled in this State transacting life, health, and annuities business in this State. The proposed amendments and repeals may impose an additional burden on small businesses that previously were exempted from obtaining an asset adequacy analysis as part of the actuarial opinion memorandum currently required to be filed. The costs for compliance are set forth in the Economic Impact above. No additional professional services should be required to comply with the proposed amendments. Consistent with the national standard adopted by the NAIC, the Department believes that all companies, regardless of size, should file an asset adequacy analysis as part of the actuarial opinion memorandum so that the Department may better evaluate a company’s financial condition through the review of statements of actuarial opinion and determine whether the assets held in support of those reserves will be adequate to satisfy the company’s outstanding obligations. As noted in the Summary and Social Impact above, the purpose of the existing rules as well as the proposed amendments and repeals is to enable the Department to evaluate a company’s financial position so that it may require the company to take appropriate steps to avoid becoming in a hazardous financial condition, thereby helping to prevent placement of the company in administrative supervision under N.J.S.A. 17:51A-1 et seq. or instituting delinquency proceedings against the company, with attendant costs and disruptions to policyholders, other insurers, the market and the public generally.

Life and health insurers and fraternal benefit societies are required to maintain appropriate reserves to pay their contractual obligations, and are required to file the opinion of an

actuary to that effect pursuant to N.J.S.A. 17B:19-10. The purpose of these proposed amendments, which reflect the underlying purpose of the existing rules, is to set forth the requirements and standards for actuarial opinions that an insurer's and society's reserves are adequate. Therefore, the requirement that appropriate reserves be established and that assets be adequate in support of those reserves do not vary based upon business size. Accordingly, the proposed amendments do not provide any differentiation in compliance requirements based on business size.

Smart Growth Impact

The proposed amendments and repeals will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:1-21A.4 and 21A.5.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in cursive brackets {thus}):

SUBCHAPTER 21A. ACTUARIAL OPINION AND MEMORANDUM FOR
LIFE/HEALTH INSURERS

11:1-21A.1 Purpose and scope

(a) The purpose of these rules is to prescribe:

1. {Guidelines and standards} **Requirements** for statements of actuarial opinion and for memoranda in support thereof;

{2. Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from submitting an asset adequacy analysis pursuant to this subchapter; and}

{3.} **2.** Rules applicable to the appointment of an appointed actuary{.}; **and**

3. Guidance as to the meaning of “adequacy of reserves”.

(b) These rules shall apply to all insurers authorized or admitted to transact life, accident and health or annuity business in this State, all fraternal benefit societies doing business in this State pursuant to N.J.S.A. {17:44A-1 et seq.} **17:44B-1 et seq.**, and to all such insurers and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State.

(c) These rules shall apply to all annual statements filed with the Commissioner on or after November 20, 1995, **and the amendments effective (effective date of amendments) (see 38 N.J.R. _____) shall apply to all annual statements filed with the Commissioner on or after (the effective date of the amendments).** {Except with respect to companies which are exempted pursuant to N.J.A.C. 11:1-21A.4, a} **A** statement of opinion on the adequacy of the

reserves and related actuarial items based on an asset adequacy analysis in accordance with N.J.A.C. 11:1-{21A.6} **21A.4**, and a memorandum in support thereof in accordance with N.J.A.C. 11:1-{21A.7} **21A.5**, shall be required each year. {Any company so exempted shall file a statement of actuarial opinion pursuant to N.J.A.C. 11:1-21A.5.}

{(d) Notwithstanding (c) above, the Commissioner may require any company otherwise exempt pursuant to this subchapter to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with N.J.A.C. 11:1-21A.6 and 21A.7 if, in the opinion of the Commissioner, an asset adequacy analysis is necessary with respect to the company.}

11:1-21A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, except where the context clearly indicates otherwise.

"Actuarial opinion" means{:

1. With respect to N.J.A.C. 11:1-21A.6, 21A.7 or 21A.8,} the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy {test} **analysis** in accordance both with N.J.A.C. 11:1-{21A.6} **21A.4** and with actuarial standards {accepted} **applicable** at the time of rendering the opinion;

{2. With respect to N.J.A.C. 11:1-21A.5, the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance both with N.J.A.C. 11:1-21A.5 and actuarial standards accepted at the time of rendering the opinion which specifically relate to this opinion.}

. . .

"Annual Statement" means that statement required by N.J.S.A. 17:23-1, 17B:21-1 and {17:44A-34} **17:44B-25**, as applicable, to be filed by the company with the Commissioner annually.

"Appointed actuary" means {any} **an** individual who is appointed or retained in accordance with the requirements set forth in N.J.A.C. 11:1-21A.3{(f)}**(d)** to provide the actuarial opinion and supporting memorandum as required by this subchapter.

"Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in N.J.A.C. 11:1-21A.3{(g)} **(e)**. {This analysis may include, but shall not be limited to, cash flow testing, sensitivity testing or applications of risk theory.}

. . .

"Fraternal benefit society" is as defined at N.J.S.A. {17:44A-1} **17:44B-2**.

. . .

{"Non-investment grade bonds" are those designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office.}

"Qualified actuary" means any individual who meets the requirements set forth in N.J.A.C. 11:1-21A.3{(e)} **(c)**.

11:1-21A.3 General requirements

(a) There shall be included on or attached to Page 1 of the annual statement for each year, beginning with 1995, **and with respect to the amendments to this subchapter effective (effective date of amendments) (see 38 N.J.R.), (the year such amendments become effective)**, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies

and contracts, in accordance with {N.J.A.C. 11:1-21A.6; provided, however, that any company exempted pursuant to N.J.A.C. 11:1-21A.4 from submitting a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with} N.J.A.C. 11:1-~~{21A.5}~~ **21A.4**.

{(b) If in the previous year a company provided a statement of actuarial opinion in accordance with N.J.A.C. 11:21A.5, and in the current year fails the exemption criteria of N.J.A.C. 11:1-21A.4(c), (d) or (g) to again provide an actuarial opinion in accordance with N.J.A.C. 11:1-21A.5, the statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.5 as part of the annual statement with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6.

(c) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.}

{(d)}**(b)** (No change in text.).

{(e)} **(c)** For purposes of this subchapter, a “qualified actuary” is an individual who:

1. – 4. (No change.)

5. Has not failed to notify the Commissioner of any action taken by any commissioner of any other state similar to that under {(e)4} **(c)4** above.

{(f)} **(d)** For purposes of this subchapter, an "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this subchapter, either directly by or by the authority of the board of directors through an executive officer of the company **other than the qualified actuary**. The company shall give the Commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in {such} **the** notice that the person meets the requirements set forth in {(e)} **(c)** above. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in {(e)} **(c)** above. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

{(g)} **(e)** The asset adequacy analysis required by this subchapter shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and to any additional standards under this subchapter, which standards are to form the basis of the statement of actuarial opinion in accordance with {N.J.A.C. 11:1-21A.6} **this subchapter**, and shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

{(h)} **(f)** The statement of actuarial opinion shall apply to all in force business on the statement date, **whether directly issued or assumed**, regardless of when or where issued

(for example, reserves {of Exhibits 8, 9 and 10,} and claim liabilities in {Exhibit 11, Part I of} **in** the **Exhibits in the** Appendix incorporated herein by reference, and equivalent items in the separate account statement or statements). **The statement shall utilize the appropriate Exhibits of the annual statement reflecting the item or exhibit number of the annual statement of the year for which the opinion is filed.**

{(i)}**(g)** If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in N.J.S.A. 17B:19-8b, e, f and g, N.J.S.A. 17B:19-5, and N.J.A.C. 11:4-6, the company shall establish {such} **the** additional reserve.

{1. For years ending prior to December 31, 1997, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

i. For the year ending December 31, 1995, the additional reserve divided by three.

ii. For the year ending December 31, 1996, two times the additional reserve divided by three.}

{(j)}**(h)** Additional reserves established under {(i)} **(g)** above and deemed not necessary in subsequent years may be released. Any amounts released {must} **shall** be disclosed in the actuarial opinion for the applicable year. The release of such reserves shall not be deemed an adoption of a lower standard of valuation.

11:1-~~{21A.6}~~**21A.4** Statement of actuarial opinion based on an asset adequacy analysis

(a) The statement of actuarial opinion submitted in accordance with this section shall consist of:

1. (No change.)

2. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items {which} **that** have been analyzed for asset adequacy and the method of analysis in the format set forth in (b)2 below, and identifying the reserves and related actuarial items covered by the opinion {which} **that** have not been so analyzed;

3. – 4. (No change.)

5. One or more additional paragraphs as may be needed in individual company cases as follows:

i. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

{ii. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

iii. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;}

Recodify existing iv. and v. as **ii. and iii.** (No change in text.)

{vi.} **iv.** If the appointed actuary chooses to add a paragraph briefly describing the assumptions {which} **that** form the basis for the actuarial opinion.

(b) The following paragraphs shall be included in the statement of actuarial opinion in accordance with this section. The language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language {which} **that** clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

1. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

i. For a company actuary, the opening paragraph of the actuarial opinion should {read} **include a statement such** as {follows}: "I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

ii. For a consulting actuary, the opening paragraph should {contain} **include** a {sentence} **statement** such as: "I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm] I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

2. The scope paragraph shall include a statement such as {the following}: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, {19} **20** []. Tabulated below are those reserves and related actuarial items which have been subject to asset adequacy analysis."

i. The tabulation of reserves and related actuarial items included in the scope paragraph shall be in the format of **the** Exhibits {8, 9, 10 and 11,} set forth in the Appendix to these rules and incorporated herein by reference, **as modified to reflect the exhibits of the annual statement in use for the year for which the opinion is filed.**

3. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as {the following}:

{i. "I have relied on [name], [title] for [for example, anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, ..."; or

ii. "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement".} **"I have relied on [name], [title] for [for example, "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or certain critical aspects of the analysis performed in conjunction with forming my opinion"]], as certified in the attached statement. I have reviewed the information relied upon for reasonableness."**

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts in the form prescribed by (e) below.

4. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall {also} include {the following} **a statement such as:**

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. **I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement.**"

5. If the appointed actuary has not examined underlying records, but has relied upon **data (for example,** listings and summaries of policies in force and/or asset records) prepared by the company {or a third party}, the reliance paragraph shall include a {sentence} **statement** such as:

{"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in- force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary"; or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary." }

“In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company’s current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary.”

Such a statement shall be accompanied by a statement by each person relied upon in the form prescribed in (e) below.

6. The opinion paragraph shall include {the following} **a statement such as:**

i. "In my opinion the reserves and related actuarial values concerning the statement items identified above:

(1) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles.

(2) Are based on actuarial assumptions {which} **that** produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(3) Meet the requirements of the insurance laws and regulations of the state of [company's state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(4) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); **and**

(5) Include provision for all actuarial reserves and related statement items which ought to be established;"

ii. "The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on {such} **the** assets, and the considerations anticipated to be received and retained under {such} **the** policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company{;}." **This statement may be omitted for a company domiciled in this State and doing business only in this State, if the Commissioner so approves pursuant to (f) below;**

iii. – v. (No change.)

vi. Following the last paragraph of the opinion, the signature of appointed actuary as well as the address and telephone number of appointed actuary, **and the date.**

(c) The adoption for new issues or new claims or other new liabilities of an actuarial assumption {which} **that** differs from a corresponding assumption used for prior new issues or new claims or other new liabilities shall not be deemed a change in actuarial assumptions within the meaning of this section.

(d) If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified,

he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for {such} **the** opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

{(e) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

i. "I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19{ }, and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete." The signature, address and telephone number of the officer of the company or accounting firm shall also be listed; or

ii. "I [name of officer], [title], or [name of company, accounting firm or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete." The signature, address and telephone number of the officer of the company, accounting firm or security analyst shall also be listed.}

(e) If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying

upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

(f) A company domiciled in this State and doing business only in this State may, with the Commissioner's approval, omit from the opinion the statement set forth at (b)6ii above. In determining whether to grant this approval, the Commissioner shall consider the following:

1. The size of the company as measured by its admitted assets;
2. The company's capital and surplus in relation to its admitted assets;
3. The percentage of total liability associated with universal or interest-sensitive life insurance, annuities, and other deposit contracts;
4. The percentage of admitted assets held in investments other than cash or investment grade debt securities;
5. Any recent change in the size, lines of business, or capital and surplus;

and

6. Any liabilities requiring additional analysis for their determination by

the Commissioner.

11:1-{21A.7}21A.5

Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary

(a) The appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves {under an opinion filed pursuant to N.J.A.C. 11:1-21A.6}. The memorandum shall be made available for examination by the Commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the Department subject to public inspection or copying pursuant to the {"Right to Know" law} **Open Public Records Act**, N.J.S.A. 47:1A-1 et seq., or subject to automatic filing with the Commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of N.J.A.C. 11:1- 21A.3{(e)}**(c)**, with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) (No change.)

(d) The reviewing actuary shall have the same status as an examiner pursuant to N.J.S.A. 17:23-20 et seq. for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this subchapter for any one of the current year or the preceding three years. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential and shall not be subject to public inspection or copying pursuant to the {"Right to Know" law} **Open Public Records Act**, N.J.S.A. 47:1A-1 et seq. However, the memorandum or other material may otherwise be released by the Commissioner with the written consent of the company involved, or to the

American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Notwithstanding this subsection, once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum shall no longer be deemed confidential.

(e) The appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in (g) and (h) below. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

~~{(e)}~~**(f)** When an actuarial opinion {under N.J.A.C. 11:1-21A.6} is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in N.J.A.C. 11:1-21A.3~~{(g)}~~**(e)** and any additional standards under this subchapter. The memorandum shall specify:

1. For reserves:
 - i. – iii. (No change.)
 - iv. Investment reserves; {and}
 - v. Reinsurance arrangements;
 - vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a**

separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

vii. Documentation of assumptions to test reserves for (f)1vii(1) through (8) below. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (1) Lapse rates (both base and excess);
- (2) Interest crediting rate strategy;
- (3) Mortality;
- (4) Policyholder dividend strategy;
- (5) Competitor or market interest rate;
- (6) Annuitization rates;
- (7) Commissions and expenses; and
- (8) Morbidity.

2. For assets:

i. – ii. (No change.)

iii. Source of asset data; {and}

iv. Asset valuation bases; and

v. Documentation of assumptions made for (f)2v(1) through (5) below. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (1) Default costs;

(2) Bond call function;

(3) Mortgage prepayment function;

(4) Determining market value for assets sold due to disinvestment strategy; and

(5) Determining yield on assets acquired through the investment strategy.

3. The analysis basis, including, but not limited to:

i. Methodology;

ii. Rationale for inclusion {/} **or** exclusion of different blocks of business and how pertinent risks were analyzed;

iii. Rationale for degree of rigor in analyzing different blocks of business **(include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business);**

iv. Criteria for determining asset adequacy **(include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice);** and

v. {Effect of Federal income taxes, reinsurance and other relevant factors} **Whether the impact of Federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;**

4. A summary of {results} **material changes in methods, procedures or assumptions for the prior year’s asset adequacy analysis;** {and}

5. A summary of results; and

{5.}6. Conclusion(s).

(g) The regulatory asset adequacy issues summary shall include:

- 1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;**
- 2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;**
- 3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;**
- 4. Comments on any interim results that may be of significant concern to the appointed actuary;**
- 5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested;**

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including, but not limited to, those affecting cash flows embedded in fixed income securities) and equity-like features in any investments, have been appropriately considered in the asset adequacy analysis; and

7. The name of the company for which the regulatory asset adequacy issues summary is being supplied.

(h) The regulatory asset adequacy issues summary shall be signed and dated by the appointed actuary rendering the actuarial opinion.

{(f)}(i) (No change in text.)

{11:1-21A.8 Additional considerations for analysis

(a) For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with N.J.A.C. 11:1-21A.6, reserves and assets may be aggregated by either of the following methods:

1. Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated; or

2. Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through

analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

- i. Are developed using consistent economic scenarios, or
- ii. Are subject to mutually independent risks, that is, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

3. In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of the method set forth in (a)1, (a)2i or (a)2ii above, whichever is applicable, and describe the aggregation in the supporting memorandum.

(b) The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves may not support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in (c) below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency shall be described in the supporting memorandum. }

{(c)}(i) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any

other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR {must} **shall** be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

{(d) For the purpose of performing the asset adequacy analysis required by this subchapter, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary shall consider in the analysis the effect of at least the following interest rate scenarios:

1. Level with no deviation;
2. Uniformly increasing over 10 years at one-half percent per year and then level;
3. Uniformly increasing at one percent per year over five years and then uniformly decreasing at one percent per year to the original level at the end of 10 years and then level;
4. An immediate increase of three percent and then level;
5. Uniformly decreasing over 10 years at one-half percent per year and then level;
6. Uniformly decreasing at one percent per year over five years and then uniformly increasing at one percent per year to the original level at the end of 10 years and then level; and
7. An immediate decrease of three percent and then level.

i. For the above and other scenarios which may be used, projected interest rates for a five year Treasury Note need not be reduced beyond the point where the five year Treasury Note yield would be at 50 percent of its initial level.

ii. The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. The method used to determine the beginning yield curve and associated interest rates shall be specifically defined. The beginning yield curve and associated interest rates shall be consistent for all interest rate scenarios. }

{(e)} **(k)** (No change in text.).

11:1-~~{21A.9}~~**21A.6** (No change in text.)

jcao/inoregs

APPENDIX

ASSET ADEQUACY TESTED AMOUNTS RESERVES AND LIABILITIES

Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 8					
A	Life Insurance				
B	Annuities				
C	Supplementary Contracts Involving Life Contingencies				
D	Accidental Death Benefit				
E	Disability-Active				
F	Disability-Disabled				
G	Miscellaneous				
	Total (Exhibit 8 Item 1, Page 3)				
Exhibit 9					
A	Active Life Reserve				
B	Claim Reserve				
	Total (Exhibit 9 Item 2, Page 3)				
Exhibit 10					
{1}	Premium{s} and Other Deposit Funds (Column 5, Line 14)				
{1.1}	Policyholder Premiums (Page 3, Line 10.1)}				
{1.2}	Guaranteed Interest Contracts ({Page 3} Column 2 , Line {10.2} 14)				
{1.3}	Other {Contract Deposit Funds} ({Page 3} Column 6 , Line {10.3} 14)				
{2}	Supplementary Supplemental Contracts {Not Involving Life Contingencies} and Annuities Certain ({Page 3} Column 3 , Line {3} 14)				
{3}	Dividend {and Coupon} Accumulations or Refunds ({Page 3} Column 4 , Line {5} 14)				
	Total Exhibit 10 (Column 1, Line 14)				

Exhibit 11 Part 1

1	Life (Page 3, Line 4.1)
2	Health (Page 3, Line 4.2)
	Total Exhibit 11, Part 1
	Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts , Lines {27} 1, 2, 3.1, 3.2, 3.3)
TOTAL RESERVES	

IMR (**General Account**, Page _____ Line _____)

(**Separate Accounts**, Page _____ Line _____)

AVR (Page _____ Line _____)

(c)

Net Deferred and Uncollected Premium

Notes:

- (a) The additional actuarial reserves are the reserves established under N.J.A.C. 11:1-21A.3{(h) or (i)} **(g)**.
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in N.J.A.C. 11:21A.3{(g)} **(e)**, by means of symbols {which} **that** should be defined in footnotes to the table.
- (c) Allocated amount **of Asset Valuation Reserve (AVR)**.