

**State of Connecticut
Regulation of
Insurance Department
Concerning
Synthetic Guaranteed Investment Contracts**

Section 1. Sections 38a-459-2 and 38a-459-3 of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 38a-459-2. Definitions

As used in sections 38a-459-1 to 38a-459-9, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Account assets” means the assets in the segregated portfolio plus any assets held in the general account or a separate account to meet the asset maintenance requirements.

(2) “Actuarial opinion and memorandum” means the opinion and memorandum of the valuation actuary required pursuant to section 38a-459-8(h) of the Regulations of Connecticut State Agencies.

(3) “Affirmatively approved” means approval of an insurance company’s plan of operation for a class of contracts containing the form of contract under review, after the plan of operation associated with the class of contracts has been reviewed by the insurance company’s domiciliary insurance department, and the plan of operation has been found to be in compliance with requirements substantially similar to those contained in sections 38a-459-1 to 38a-459-9, inclusive, of the Regulations of Connecticut State Agencies by the domiciliary insurance department. Affirmatively approved does not mean approval as a result of an expiration of the time for review, such as when a plan of operation is “deemed approved” as set forth in section 38a-459-3(c) or 38a-459-4(b) of the Regulations of Connecticut State Agencies.

[(4)] “[Affiliate” means “affiliate” as defined in section 38a-1 of the Connecticut General Statutes.]

[(5)](4) “Appointed actuary” means the qualified actuary appointed or retained either directly by or by the authority of the board of directors through an executive officer of the insurance company to prepare the annual statement of actuarial opinion for the insurance company as a whole pursuant to section 38a-78 of the Connecticut General Statutes.

[(6)](5) “Asset maintenance requirement” means the requirement to maintain assets to fund contract benefits in accordance with section 38a-459-8(a) of the Regulations of Connecticut State Agencies.

[(7)](6) “Class of contracts” means the set of all contracts to which a given plan of operation pertains.

[(8)](7) “Contract value record” means an accounting record, provided by the contract in relation to a segregated portfolio of assets, that is credited with a fixed rate of return over regular periods, and that is used to measure the extent of the insurance company’s obligation to the contract holder. The fixed rate of return credited to the contract value record is determined by means of a crediting rate formula or declared at the inception of the contract and valid for the entire term of the contract.

[(9)](8) “Crediting rate formula” means a mathematical formula used to calculate the fixed rate of return credited to the contract value record during any rate period and based in part upon the difference between the contract value record and the market value record amortized over an

appropriate period. The fixed rate of return calculated by means of this formula may reflect prior and current market conditions with respect to the segregated portfolio, but shall not be based on future changes in market conditions.

[(10)](9) “Date of filing,” with respect to a filing for approval of a contract form, means the date the form is filed pursuant to section 38a-8-14 of the Regulations of Connecticut State Agencies.

[(11)](10) “Duration” means, with respect to the segregated portfolio assets or guaranteed contract liabilities, a measure of price sensitivity to changes in interest rates, such as the Macaulay duration or option-adjusted duration.

[(12)](11) “Fair market value” means a reasonable estimate of the amount that a buyer of an asset would be willing to pay, and a seller of an asset would be willing to accept, for the asset without duress in an arm’s length transaction. In the case of a publicly traded security, the “fair market value” is the price at which the security is traded or, if no price is available, a price that appropriately reflects the latest bid and asked prices for the security. In the case of a debt instrument that is not publicly traded, the “fair market value” is the discounted present value of the asset calculated at a reasonable discount rate. For all other non-publicly traded assets, “fair market value” shall be determined in accordance with valuation practices customarily used within the financial industry.

[(13)](12) “Guaranteed minimum benefits” means contract benefits on a specified date that shall be either:

(A) A principal guarantee, with or without a fixed minimum interest rate guarantee, related to the segregated portfolio;

(B) An assurance as to the future investment return or performance of the segregated portfolio; or

(C) The fair market value of the segregated portfolio, to the extent that the fair market value of the assets determines the contract holder’s benefits.

[(14)](13) “Hedging instrument” means:

(A) (i) An interest rate futures agreement or foreign currency futures agreement, an option to purchase or sell an interest rate futures agreement or foreign currency futures agreement, or any option to purchase or sell a security or foreign currency, used in a bona fide hedging transaction; or

[(ii)](i) A financial agreement or arrangement entered into with a broker, dealer, or bank qualified under applicable federal and state securities or banking laws and regulations, in connection with investments in one or more securities in order to reduce the risk of changes in market valuation or to create a synthetic investment that, when added to the portfolio, reduces the risk of changes in market valuation.

(B) An instrument shall not be considered a hedging instrument or a part of a bona fide hedging transaction if it is purchased in conjunction with another instrument where the effect of the combined transaction is an increase in the portfolio’s exposure to market risk.

[(15)](14) “Investment guidelines” means a set of written guidelines, established in advance by the person with investment authority over the segregated portfolio, to be followed by the investment manager. The guidelines shall include a description of:

(A) The segregated portfolio’s investment objectives and limitations;

(B) The investment manager’s degree of discretion;

(C) The duration, asset class, quality, diversification, and other requirements of the segregated portfolio; and

(D) The manner in which derivative instruments may be used, if at all, in the segregated portfolio.

[(16)](15) “Investment manager” means the person (including the contract holder) responsible for managing the assets in the segregated portfolio in accordance with the investment guidelines in a fiduciary capacity to the owner of the assets.

[(17)](16) “Market value record” means an accounting record provided by the contract to reflect the fair market value of the segregated portfolio.

[(18)](17) “Permitted custodial institution” means a bank, trust company, or other corporate entity providing trust or custodial services.

[(19)](18) “Plan of operation” means a written plan meeting the requirements of section 38a-459-3(c) of the Regulations of Connecticut State Agencies.

[(20)](19) “Qualified actuary” means an individual who meets the qualification standards set forth in section 38a-53-1 of the Regulations of Connecticut State Agencies.

[(21)](20) “Rate period” means the period of time during which the fixed rate of return credited to the contract value record is applicable between crediting rate formula adjustments.

[(22)](21) “Segregated portfolio” means:

(A) A portfolio or sub-portfolio of assets to which the contract pertains that is held in a custody or trust account by the permitted custodial institution and identified on the records of the permitted custodial institution as special custody assets held for the exclusive benefit of the retirement plans or other entities on whose behalf the contract holder holds the contract; and

(B) Any related cash or currency received by the permitted custodial institution for the account of the contract holder and held in a deposit account for the exclusive benefit of the retirement plans or other entities on whose behalf the contract holder holds the contract.

[(23)](22) “Treasury-based spot rate” corresponding to a given time of benefit payment means the yield on a zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at that time, or the zero-coupon yield implied by the price of a representative sampling of coupon-bearing, non-callable, non-indexed, and non-prepayable United States government obligations in accordance with a formula set forth in the plan of operation. If a zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at the time of payment does not exist, then the “treasury-based spot rate” for such benefit payment shall be the yield on the zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at the date closest to the benefit payment or the yield determined through a methodology set forth in the plan of operation designed to reach a comparable result.

[(24)](23) “Index spot rate” corresponding to a given time of benefit payment means the zero-coupon yield implied by the (A) Barclays Short Term Corporate Index (for a given time benefit payment under one year), or (B) zero-coupon yield implied by the Barclays U.S. Corporate Investment Grade Bond Index (for a given time of benefit payment greater than or equal to one year).

[(25)](24) “Blended spot rate” corresponding to a given time of benefit payment means a blend of 50 percent each of the (A) treasury-based spot rate, and (B) index spot rate. To the extent that guaranteed contract liabilities are denominated in the currency of a foreign country rated in one of the two highest rating categories by an independent, nationally-recognized United States rating agency acceptable to the insurance commissioner and are supported by investments denominated in the currency of the foreign country, the treasury-based spot rate component of the “blended spot rate” may be determined by reference to substantially similar obligations of the government of the foreign country. For liabilities other than those described above, the “blended spot rate” shall be determined on a basis mutually agreed upon by the insurance company and the insurance commissioner.

[(24)](25) “Synthetic guaranteed investment contract” or “contract” means a group annuity contract or other agreement that establishes the insurance company’s obligations by reference to a segregated portfolio of assets that is not owned by the insurance company. The contract functions as an accounting record for an accumulation fund and the fixed rate of return credited to the fund reflects an amortization of the segregated portfolio’s market gains and losses based on the period specified in the crediting rate formula, subject to any minimum interest rate guarantee.

[(25)](26) “Unilateral contract termination event” means an event allowing the insurance company to unilaterally and immediately terminate the contract without future liability or obligation

to the contract holder.

[(26)](27) “United States government obligation” means a direct obligation issued, assumed, guaranteed or insured by the United States or by an agency or instrumentality of the United States government.

[(27)](28) “Valuation actuary” means the appointed actuary or, alternatively, a qualified actuary designated by the appointed actuary to render the actuarial opinion. Written documentation of any such designation shall be on file at the insurance company and available for review by the insurance commissioner upon request.

[(28)](29) “Withdrawal hierarchy” means a protocol establishing the order of payment of amounts payable from the segregated portfolio and other funding arrangements other than at contract termination.

Sec. 38a-459-3. Financial requirements and plan of operation for synthetic guaranteed investment contracts

(a) A contract shall not be delivered or issued for delivery in this state unless the issuing insurance company is licensed to do life insurance business in this state pursuant to section 38a-41 of the Connecticut General Statutes and is financially qualified under the provisions of subsection (b) of this section. In addition, a domestic insurance company shall not deliver or issue for delivery, either in this state or outside this state, [and an affiliate of a domestic insurance company shall not issue for delivery in this state] a contract belonging to a specific class of contracts unless the insurance company has satisfied the requirements of subsection (c) of this section with respect to that class.

(b) An insurance company is financially qualified under this section if its most recent statutory financial statements reflect at least \$1 billion in admitted assets or \$100 million in capital and surplus, and its risk-based capital results do not trigger a regulatory action level event as set forth in section 38a-72-4 of the Regulations of Connecticut State Agencies. In lieu of the requirements in the preceding sentence, the insurance company may be required to satisfy such other financial qualification requirements set forth by the insurance commissioner as necessary or appropriate in a particular case to protect the insurance company’s policyholders or the public.

(c) A domestic insurance company satisfies the requirements of this section with respect to a class of contracts if the insurance company has filed a plan of operation pertaining to the class of contracts, together with copies of the forms of contract in the class, with the insurance commissioner and the filing of the plan of operation has been approved or has not been disapproved within the sixty-day period following the date of filing, in which event the plan of operation shall be deemed approved. [An affiliate of a domestic insurance company satisfies the requirements of this section with respect to a class of contracts if the insurance company has filed a plan of operations pertaining to the class of contracts, together with copies of forms of the contracts in the class, with the insurance commissioner and the filing has been approved, has not been disapproved, or the insurance commissioner has not provided to the affiliate in writing a detailed listing of all additional information necessary to make a determination on the filing within the thirty-day period following the date of the filing, in which event the plan of operations shall be deemed approved. If additional information is requested, the affiliate satisfies the requirements of this section once it has submitted a response to the insurance commissioner that to the best of the affiliate’s knowledge and belief is responsive to the insurance commissioner’s request and the filing, along with the response, has been approved or has not been disapproved within the thirty-day period following the date the response has been submitted, in which event the plan of operations shall be deemed approved.] The plan of operation for a class of contracts shall describe the financial implications for the insurance company of the issuance of contracts in the class, and shall include at least the following:

(1) A statement that the plan of operation will be administered in accordance with the

requirements prescribed by the insurance commissioner pursuant to sections 38a-459-1 to 38a-459-9, inclusive, of the Regulations of Connecticut State Agencies, along with a statement that the insurance company shall comply with the plan of operation in its administration of the contract;

(2) A statement describing the methods and procedures used to value statutory liabilities for purposes of section 38a-459-8 of the Regulations of Connecticut State Agencies;

(3) A description of the criteria used by the insurance company in approving the investment manager for the segregated portfolio of assets associated with a contract in the class, if the investment manager is an entity other than the insurance company or its wholly owned subsidiary;

(4) A description of the insurance company's requirement for reports concerning the assets in each segregated portfolio and transactions involving the assets, and a description of how the insurance company can use the information in a report to determine that the segregated portfolio is being managed in accordance with its investment guidelines. The insurance company shall require that the report be prepared no less frequently than quarterly, and include a complete statement of segregated portfolio holdings and their fair market value;

(5) A statement of the anticipated financial results for one or more sample contracts from the class of contracts, showing at a minimum the projected contract value records, the applicable fixed rate or rates of return, and the projected market value records, describing how the investments in the segregated portfolio reflect provision for benefits insured by the contract and how the contract value and market values and the rates of return may be affected by changes in the investment returns of the segregated portfolio and reasonably anticipated deposits to and withdrawals from the segregated portfolio by the contract holder, as well as any advances made by the insurance company to the contract holder. The sample contracts shall be chosen to reasonably represent the range of results that could be expected from possible combinations of contract provisions of all contracts within the class. The statement shall include at least three hypothetical return scenarios (level, increasing, and decreasing) and for each of these scenarios, at least three withdrawal scenarios (zero, moderate, and high) shall be modeled. The insurance commissioner may require additional scenarios to fully understand the risks under the class of contracts. The period covered by the statement shall be the greater of five years or the minimum period the insurance company has to underwrite the risk;

(6) A statement that all contracts in the class of contracts satisfy the requirements regarding unilateral contract terminations of section 38a-459-7 of the Regulations of Connecticut State Agencies, together with a description of all termination events, discontinuation triggers and options, notice requirements, corrective action procedures, all other contract safeguards, and the procedures to be followed when a unilateral contract termination event occurs;

(7) A description of the allowable investment parameters (e.g., objectives, derivative strategies, asset classes, quality, duration, and diversification requirements applied to the assets held within the segregated portfolio) to be reflected in the investment guidelines applicable to each contract issued in the class to which the submitted plan of operation applies; and a description of the procedures that shall be followed by the insurance company in evaluating the appropriateness of any specific investment guidelines submitted by the contract holder. If the insurance company chooses to operate a contract in accordance with investment guidelines not meeting the criteria established pursuant to this subdivision, the non-conforming set of investment guidelines shall be filed with the insurance commissioner in accordance with the filing requirements of this subsection;

(8) A description of the criteria used by the insurance company in approving issuance of a contract to a pooled fund representing multiple employer-sponsored plans and in approving the investment manager for the segregated portfolio of assets associated with such pooled fund contract;

(9) A description of the risk-mitigation techniques used by the insurance company in connection with contracts issued to pooled funds representing multiple employer-sponsored plans;

[(8)](10) An unqualified opinion by a qualified actuary with expertise in such matters as to the

adequacy of the consideration charged by the insurance company for the risks it has assumed with respect to the contracts in the class to which the plan of operation applies. A statement that the actuarial opinion and memorandum required pursuant to section 38a-459-8 of the Regulations of Connecticut State Agencies, with respect to the class of contracts to which the plan of operation applies, includes:

(A) If a payment has been made by the insurance company in the prior reporting period under a contract in the class, the amount of aggregate risk charges, i.e., the consideration charged by the insurance company for the risks it has assumed under the contract (net of administrative expenses, i.e., the amount of insurance company overhead or expense that is directly or indirectly allocable to a contract) for contracts in the class, and the aggregate amount of any losses incurred; and

(B) An inventory of all material unilateral contract termination events in the class that have not been cured within the time period specified and that have occurred during the prior reporting period but where the insurance company decided not to terminate the contract;

~~[(9)]~~ (11) A description of the withdrawal hierarchy, if any.

(d) The insurance commissioner may request that an insurance company supplement the information that the insurance company filed with the commissioner pursuant to subsection (c) of this section. The insurance company shall promptly file such supplemental information with the commissioner and such information shall be sufficiently detailed to minimize the need for any additional requests for information by the commissioner.

Sec. 2. Sections 38a-459-11 and 38a-459-12 of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 38a-459-11. Definitions

As used in sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Account assets” means separate account assets plus any assets held in the general account or a supplemental account utilized to meet the asset maintenance requirements.

(2) “Account contracts” means contracts providing guaranteed minimum benefits or other benefits and funded by a separate account and, if applicable, funded in part by the general account or a supplemental account in order to meet the asset maintenance requirements.

(3) “Actuarial opinion” means the opinion of the valuation actuary as required by section 38a-459-17 of the Regulations of Connecticut State Agencies.

(4) “Actuarial memorandum” means the memorandum of the valuation actuary required by section 38a-459-17 of the Regulations of Connecticut State Agencies.

~~[(5)]~~ [“Affiliate” means “affiliate” as defined in section 38a-1 of the Connecticut General Statutes.]

~~[(6)]~~ (5) “Affirmatively approved” means approval of an insurance company’s plan of operation for a class of contracts containing the form of contract under review after the plan of operations associated with the class of contracts has been reviewed by the insurance company’s domiciliary insurance department or regulatory authority, and the plan of operations has been found to be in compliance with requirements substantially similar to those contained in sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies. Affirmatively approved does not mean approval is ‘deemed approved’ as set forth in sections 38a-459-12(b) or (c), or 38a-459-13(b) of the Regulations of Connecticut State Agencies.

~~[(7)]~~ (6) “Appointed actuary” means the qualified actuary appointed or retained either directly by or by the authority of the board of directors through an executive officer of the insurance company to

prepare the annual statement of actuarial opinion for the insurance company as a whole pursuant to section 38a-78 of the Connecticut General Statutes.

[(8)](7) “Asset maintenance requirements” means the requirement to maintain assets to fund contract benefits in accordance with sections 38a-459-14 to 38a-459-16, inclusive, of the Regulations of Connecticut State Agencies.

[(9)](8) “Book value contract” means a fixed accumulation contract (e.g., GIC), purchased through a retirement plan or deferred compensation plan, established or maintained by an employer, which contract does not participate in the investment experience of a separate account, with a fixed interest rate guarantee, including a guarantee based on an external index, and that is supported by a separate account, the plan of operations of which provides that the separate account’s assets are valued as if the assets were held in the insurance company’s general account.

[(10)](9) “Class of contracts” means the set of all contracts to which a given plan of operations pertains.

[(11)](10) “Contract” means a group life insurance policy, group annuity contract, or funding agreement that is within the scope of sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies as set forth in section 38a-459-10 of the Regulations of Connecticut State Agencies.

[(12)](11) “Contract benefits” means the amounts obligated to be paid by the insurance company under an account contract.

[(13)](12) “Contract liabilities” means the liabilities of the insurance company under account contracts, including liabilities with respect to which guarantees as to amount are provided by the insurance company and liabilities with respect to which guarantees as to amount are not provided by the insurance company.

[(14)](13) “Date of filing,” with respect to a filing for approval of a form of contract under sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies, means the date the form is filed pursuant to section 38a-8-14 of the Regulations of Connecticut State Agencies.

[(15)](14) “Derivative instrument” means an agreement, option, instrument, or a series or combination of them:

(A) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

(B) That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

(C) Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or substantially similar instruments, or any series or combination of them and any agreements, options, or other instruments permitted under sections 38a-102 to 38a-102i, inclusive, of the Connecticut General Statutes.

[(16)](15) “Duration” means, with respect to separate account or supplemental account assets or guaranteed contract liabilities, a measure of the price sensitivity of a stream of cash flows to interest rate movements, including, but not limited to, modified duration or option adjusted duration.

[(17)](16) “General account” means the assets of the insurance company other than separate account and supplemental account assets, and associated reserves.

[(18)](17) “Guaranteed minimum benefits” means benefits payable under the terms of the contract that are based on either subparagraph (C) of this subdivision or the greater of subparagraph (A) or (B) of this subdivision:

(A) That part of the market value of account assets that determines the contract holder’s benefits, i.e., to the extent the assets are beneficially “client” assets; provided, that if asset performance does

not determine the contract holder's benefit, this subparagraph equals zero;

(B) A fixed minimum guarantee related to all or part of the considerations received under the contract;

(C) An amount based upon a publicly available interest rate series or an index of the aggregate market value of a group of publicly traded financial instruments, either of which is specified in the contract.

[(19)](18) "Hedging transaction" means a derivative transaction, involving the use of one or more derivative instruments, entered into and maintained to reduce: (A) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring; (B) the currency exchange risk or the degree of exposure as to assets or liabilities that an insurance company has acquired or incurred or anticipates acquiring or incurring; or (C) other derivative transactions specified as hedging transactions in rules adopted by the insurance commissioner.

[(20)](19) "Index contract" means a contract under which benefits shall be based upon a publicly available interest rate series or an index of the aggregate market value of a group of publicly traded financial instruments, either of which is specified in the contract, and that does not provide a guarantee of some or all of the consideration received plus earnings at a fixed rate specified in advance and that does not provide any secondary guarantees on elective benefits or maturity values.

[(21)](20) "Market value separate account" means a separate account in which the account assets are valued at their market value.

[(22)](21) "Plan of operations" means a written plan meeting the requirements of section 38a-459-12 of the Regulations of Connecticut State Agencies.

[(23)](22) "Qualified actuary" means an individual who is qualified to sign statements of actuarial opinion in accordance with the qualification standards set forth in section 38a-53-1 of the Regulations of Connecticut State Agencies.

[(24)](23) "Separate account" means an account established pursuant to section 38a-433 or 38a-459 of the Connecticut General Statutes.

[(25)](24) "Treasury-based spot rate" corresponding to a given time of benefit payment means the yield on a zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at that time, or the zero-coupon yield implied by the price of a representative sampling of coupon-bearing, non-callable, non-indexed, and non-prepayable United States government obligations, in accordance with a formula set forth in the plan of operations. If a zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at the time of payment does not exist, then the "treasury-based spot rate" for such benefit payment shall be the yield on the zero-coupon, non-callable, non-indexed, and non-prepayable United States government obligation maturing at the date closest to the benefit payment or the yield determined through a methodology set forth in the plan of operation designed to reach a comparable result.

[(26)](25) "Index spot rate" corresponding to a given time of benefit payment means the zero-coupon yield implied by the (A) Barclays Short Term Corporate Index (for a given time of benefit payment under one year), or (B) zero-coupon yield implied by the Barclays U.S. Corporate Investment Grade Bond Index (for a given time of benefit payment greater than or equal to one year).

[(27)](26) "Blended spot rate" corresponding to a given time of benefit payment means a blend of 50 percent each of the (A) treasury-based spot rate, and (B) index spot rate. To the extent that guaranteed contract liabilities are denominated in the currency of a foreign country rated in one of the two highest rating categories by an independent, nationally-recognized United States rating agency acceptable to the insurance commissioner and which are supported by investments denominated in the currency of the foreign country, the Treasury-based spot rate component of the "blended spot

rate” may be determined by reference to substantially similar obligations of the government of the foreign country. For liabilities other than those described above, the “blended spot rate” shall be determined on a basis mutually agreed upon by the insurance company and the insurance commissioner.

[(26)](27) “Supplemental account” means a separate account established pursuant to sections 38a-459-14 to 38a-459-16, inclusive, of the Regulations of Connecticut State Agencies to which assets may be contributed by the insurance company for the purpose of complying, in whole or in part, with the asset maintenance requirement and with respect to which neither the account contracts nor applicable law shall provide that the assets of the supplemental account are not chargeable with liabilities arising out of any other business of the insurance company.

[(27)](28) “United States government obligation” means a direct obligation issued, assumed, guaranteed, or insured by the United States or by an agency or instrumentality of the United States.

[(28)](29) “Valuation actuary” means the appointed actuary or, alternatively, a qualified actuary designated by the appointed actuary to render the actuarial opinion pursuant to section 38a-459-17 of the Regulations of Connecticut State Agencies. Written documentation of any such designation shall be on file at the insurance company and available for review by the insurance commissioner upon request.

Sec. 38a-459-12. Plan of operations requirements

(a) A contract may not be delivered or issued for delivery in this state unless the issuing insurance company is licensed to do life insurance business in this state pursuant to section 38a-41 of the Connecticut General Statutes. In addition,

[(1)] [A] a domestic insurance company may not deliver or issue for delivery, either in this state or outside this state, a contract belonging to a specific class of contracts unless the insurance company has satisfied the requirements of subsection (b) of this section with respect to that class[; and].

[(2)] [An affiliate of a domestic insurance company may not deliver or issue for delivery in this state a contract belonging to a specific class of contracts unless the insurance company has satisfied the requirements of subsection (c) of this section with respect to that class.]

(b) A domestic insurance company satisfies the requirements of this section with respect to a class of contracts if the insurance company has filed a plan of operations pertaining to the class of contracts, together with copies of forms of the contracts in the class, with the insurance commissioner and the filing has been approved or has not been disapproved within a sixty-day period following the date of the filing, in which event the plan of operations shall be deemed approved.

[(c)] [An affiliate of a domestic insurance company satisfies the requirements of this section if the insurance company has filed a plan of operations pertaining to the class of contracts, together with copies of forms of the contracts in the class, with the insurance commissioner and the filing has been approved, has not been disapproved, or the insurance commissioner has not provided to the affiliate in writing a detailed listing of all additional information necessary to make a determination on the filing within a thirty-day period following the date of the filing, in which event the plan of operations shall be deemed approved. In the situation where additional information is requested, the affiliate satisfies the requirements of this section once it has submitted a response to the insurance commissioner that to the best of the affiliate’s knowledge and belief is responsive to the insurance commissioner’s request and the filing, along with the response, has been approved or has not been disapproved within a thirty-day period following the date the response has been submitted, in which event the plan of operations shall be deemed approved.]

[(d)](c) The plan of operations for a class of contracts shall describe the financial implications for the insurance company of the issuance of contracts in the class, and shall include at least the following:

(1) A description of the class of contracts to which the plan of operations pertains, including a description of the products, the markets to which the products will be sold, and the benefits that are being offered (including whether those benefits will be paid on a market or book value basis);

(2) A statement that the plan of operations shall be administered in accordance with the requirements prescribed by the insurance commissioner pursuant to sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies, along with a statement that the insurance company shall comply with the plan of operations in its administration of the contract;

(3) A statement of the investment policy for the separate account and any supplemental account, including requirements for diversification, maturity, type and quality of assets, and, as applicable, target duration for matching guaranteed contract liabilities or the degree to which the investment policy is likely to match the performance of an interest rate series or index on which contract benefits are based;

(4) A description of how the value of the separate account assets and any supplemental account is to be determined, including but not limited to, a statement of procedures and rules for valuing securities and other assets that are not publicly traded;

(5) A description of how the guaranteed contract liabilities are to be valued, including, if applicable, with respect to guaranteed minimum benefits or other benefits, a description of the methodology for calculating spot rates and the rates proposed to be used to discount guaranteed contract liabilities if higher than the applicable spot rates, but the rate or rates used shall not exceed the blended spot rate, except that if the expected time of payment of a contract benefit is more than 30 years, the guaranteed minimum benefits or other benefits shall be discounted from the expected time of payment to year 30 at a rate of no more than 80 percent of the thirty year blended spot rate and from year 30 to the date of valuation at a rate not greater than the thirty year blended spot rate, and shall accurately reflect expected investment returns (taking into account foreign exchange risks);

(6) A statement of how the separate account's operations are designed to provide for payment of contract benefits as they become due, including but not limited to:

(A) A description of the method for estimating the amount and timing of benefit payments;

(B) The arrangements necessary to provide liquidity to cover contingencies;

(C) The method to be used to comply with the asset maintenance requirement;

(D) The manner in which account assets shall be allocated between the separate account, any supplemental account, and the general account;

(E) If applicable, the deductions to be used in determining the market value of an asset when determining the asset maintenance requirement when the investment policy of the separate account and any supplemental accounts is not likely to match the performance of an interest rate series or index on which contract benefits are based; and

(F) For index contracts, the deductions to be used for replicated (synthetic asset) transactions in determining the market value of the separate account.

(G) For market value separate accounts supporting contracts other than index contracts: (i) A description of the criteria used by the insurance company in approving issuance of a contract to a pooled fund representing multiple employer-sponsored plans; and (ii) a description of risk-mitigation techniques used by the insurance company in connection with contracts issued to pooled funds representing multiple employer-sponsored plans.

(7) An unqualified opinion by a qualified actuary with expertise in such matters as to the adequacy of the consideration charged by the insurance company for the risks it has assumed with respect to the contracts in the class to which the plan of operations pertains;

(8) If hedging transactions are to be utilized in managing separate account or any supplemental account assets, a description of the instruments and techniques and an explanation of how they are intended to reduce risk of loss;

(9) If the amount of the asset maintenance requirement depends on the separate account, any supplemental account or a subportfolio of either being duration matched, a description of the method used to determine the durations of separate account and any supplemental account assets and guaranteed contract liabilities;

(10) If a part of the asset maintenance requirement is to be met by maintaining a reserve liability in the general account, a description of:

(A) The circumstances under which increases and decreases in the general account portion of the reserve liability shall be made;

(B) The circumstances under which transfers shall be made between the separate account and the general account; and

(C) Any arrangements needed to provide sufficient liquidity in the general account to enable the insurance company to make transfers to the separate account when due.

(11) A statement as to the extent to which the contracts in the class shall provide that the separate account assets shall not be chargeable with liabilities arising out of any other business of the insurance company; and

(12) If any person other than the insurance company may authorize, approve, or review the acquisition and disposition of investments for the separate account or any supplemental account, a statement of the safeguards adopted by the insurance company to assure that the actions to be taken by these persons are appropriate, including a description of the criteria used by the insurance company in selecting the person.

[(e)](d) Notwithstanding the descriptions in the plan of operations, the insurance company may change the rate utilized, pursuant to section 38a-459-14(f) of the Regulations of Connecticut State Agencies, to discount guaranteed contract liabilities and other items applicable to the separate account or any supplemental accounts, (e.g., if the investment portfolio is different from the investment portfolio anticipated by the plan of operations), provided that the rate shall not exceed the blended spot rates as prescribed in subsection (c)(5) of this section. Any such change shall be disclosed and justified in the actuarial opinion submitted pursuant to section 38a-459-17 of the Regulations of Connecticut State Agencies.

[(f)](e) The plan of operations may provide that the separate account shall fund guaranteed contract liabilities denominated in the currency of a foreign country with separate account and any supplemental account assets denominated in that currency, provided that at the time of issuance of the account contracts the country is rated in one of the two highest rating categories by an independent, nationally-recognized United States rating agency acceptable to the insurance commissioner.

[(g)](f) The insurance commissioner, at his or her discretion, may require an insurance company to file additional information as part of the plan of operations upon a determination that the plan of operations is insufficient.

Statement of Purpose

To eliminate extra-territoriality (i.e., affiliate of a domestic insurance company) language from the regulations making Connecticut's regulations more in line and more competitive with the similar regulations of other state and the relevant model regulation of the National Association of Insurance Commissioners. Currently these regulations require a burdensome and unnecessary filing requirement on large insurers that the proposed amendments seek to eliminate.