

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8 and chapter 508, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 96, “Synthetic Guaranteed Investment Contracts,” Iowa Administrative Code.

The rules in Chapter 96 prescribe the terms and conditions under which life insurance companies may issue group annuity contracts and other contracts issued in connection with group annuity contracts that establish the insurer’s obligation by reference to a segregated portfolio of assets that is not owned by the insurer; the essential operational features of the segregated portfolio of assets; and the reserve requirements for these group annuity contracts and agreements.

The proposed amendments to Chapter 96 are intended to do the following:

1. Revise the definitions of “spot rate” and “synthetic guaranteed investment contract.”
2. Require that a plan of operations for a class of contracts shall include (1) the criteria used by an insurer in evaluating the potential issuance of a pooled fund contract, (2) the criteria used to approve the investment manager for the segregated portfolio of assets associated with a pooled fund contract, and (3) a description of risk-mitigation techniques used by the insurer in connection with contracts issued to pooled funds.
3. Revise the calculation of the minimum value of guaranteed contract benefits under a contract issued to a pooled fund representing multiple employer-sponsored plans to reflect projected plan sponsor contract value withdrawals available to the member plans in the pooled fund.
4. Require that an actuarial memorandum clearly describe how the valuation actuary has reflected withdrawal risks, if applicable, including the impact of any dynamic lapse assumption and the results of sensitivity testing of the prudent estimate of future plan sponsor withdrawals.

The Division intends that these amendments will become effective July 26, 2017.

Any interested person may make written comments on these proposed amendments on or before May 16, 2017. Written comments may be sent to Bob Koppin, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to robert.koppin@iid.iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on May 17, 2017, at 1:30 p.m. in Conference Room 4 North of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

A waiver provision is provided in subrule 96.6(2).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 505.8 and chapter 508.

The following amendments are proposed.

ITEM 1. Amend rule 191—96.3(505,508) as follows:

191—96.3(505,508) Scope and application.

96.3(1) This chapter applies to that portion of a group annuity contract or other contract issued in connection with group annuity contracts described in rule 191—96.4(505,508), definition of “synthetic guaranteed investment contract,” and issued by a life insurer ~~that~~:

- a. That functions as an accounting record for an accumulation fund; and
- b. That has benefit guarantees relating to a principal amount and levels of interest at a fixed rate of return specified in advance.

96.3(2) The fixed rate of return ~~will~~:

- a. ~~Shall be constant over the applicable rate periods, and may;~~
- b. ~~May reflect prior and current market conditions with respect to the segregated portfolio but may; and~~
- c. ~~Shall not reference future changes in market conditions.~~

96.3(3) This chapter applies to all synthetic guaranteed investment contract forms filed on or after January 18, 2012. ~~Contract~~ In addition, the minimum statutory reserve requirements of rule 191—96.10(505,508) shall apply to all synthetic guaranteed investment contracts regardless of issue date. The contract forms that have been and related plans of operation that were issued or filed before January 18, 2012 prior to January 1, 2017, need not be refiled with the commissioner.

ITEM 2. Amend rule **191—96.4(505,508)**, definitions of “Spot rate,” and “Synthetic guaranteed investment contract,” as follows:

“*Spot rate,*” means:

1. “Treasury-based spot rate,” corresponding to a given time of benefit payment, means the yield on a zero-coupon noncallable and nonprepayable United States government obligation maturing at that time, or the zero-coupon yield implied by the price of a representative sampling of coupon-bearing, noncallable and nonprepayable United States government obligations in accordance with a formula set forth in the plan of operation.

2. “Index spot rate,” corresponding to a given time of benefit payment, means the zero-coupon yield implied by (a) the Barclays Short Term Corporate Index for a given time of benefit payment under one year or (b) the zero-coupon yield implied by the Barclays United States Corporate Investment Grade Bond Index for a given time of benefit payment greater than or equal to one year.

3. “Blended spot rate,” corresponding to a given time of benefit payment, means a blend of 50 percent each of (a) the treasury-based spot rate, and (b) the 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 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 insurer and the commissioner.

“Synthetic guaranteed investment contract” or “contract” means a group annuity contract or other contract issued in connection with a group annuity contract that ~~in whole or in part~~ establishes the insurer’s obligations by reference to a segregated portfolio of assets that is not owned by the insurer. 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 formula, subject to any minimum interest rate guarantee.

ITEM 3. Amend subparagraph **96.5(2)“a”(7)** as follows:

(7) A description of the allowable investment parameters (such as 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

will be followed by the insurer in evaluating the appropriateness of any specific investment guidelines submitted by the contract holder. If the insurer chooses to operate a contract in accordance with investment guidelines that do not conform to the criteria established pursuant to this subparagraph, the nonconforming set of investment guidelines shall be filed with the commissioner in accordance with the filing requirements of this subrule;

ITEM 4. Renumber subparagraphs **96.5(2)“a”(8)** and **(9)** as **96.5(2)“a”(10)** and **(11)**.

ITEM 5. Adopt the following **new** subparagraph **96.5(2)“a”(8)**:

(8) For contract forms filed on or after January 1, 2017, a description of the criteria used by the insurer in approving for contract issuance 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;

ITEM 6. Adopt the following **new** subparagraph **96.5(2)“a”(9)**:

(9) For contract forms filed on or after January 1, 2017, a description of risk-mitigation techniques used by the insurer in connection with contracts issued to pooled funds representing multiple employer-sponsored plans;

ITEM 7. Amend subrule 96.10(2) as follows:

96.10(2) In determining compliance with the asset maintenance requirement and the reserve for the value of guaranteed contract liabilities specified in subrule 96.10(1), the insurer shall deduct a percentage of the market value of an asset as follows:

a. For debt instruments, the percentage shall be the NAIC asset valuation “reserve objective factor,” but the factor shall be increased by 50 percent for the purpose of this calculation if the difference in durations of the assets and liabilities is more than one-half year. The above notwithstanding, in the event that, under the terms of the synthetic guaranteed investment contract, the asset default risk for debt instruments is borne solely by the contract holder, there shall be no asset valuation reserve percentage deduction from the market value of an asset, for purposes of complying with the asset maintenance requirement and the reserve for guaranteed contract liabilities specified in subrule 96.10(1).

b. For assets that are not debt instruments, the percentage shall be the NAIC asset valuation reserve “maximum reserve factor.”

ITEM 8. Amend subrule 96.10(6) as follows:

96.10(6) For purposes of this chapter, the “value of guaranteed contract liabilities” is defined to be the sum of the expected guaranteed contract benefits, each discounted at a rate corresponding to the expected time of payment of the expected guaranteed contract benefit that is not greater than ~~the maximum multiple~~ of the spot rate supportable by the expected return from the segregated portfolio assets, and in no event greater than ~~105 percent of the blended~~ spot rate as described in the plan of operation, pursuant to rule 191—96.5(505,508), or the actuary’s opinion and memorandum, pursuant to subrule 96.10(8), except that if the expected time of payment of an expected guaranteed contract benefit is more than 30 years, it shall be discounted from the expected date of payment to year 30 at a rate of no more than 80 percent of the 30-year blended spot rate and from year 30 to the date of valuation at a rate not greater than ~~105 percent of the 30-year blended~~ spot rate.

ITEM 9. Adopt the following **new** paragraph **96.10(7)“c”**:

c. The minimum value of guaranteed contract benefits under a contract issued to a pooled fund representing multiple employer-sponsored plans shall be determined so as to reflect projected plan sponsor contract value withdrawals available to the member plans in the pooled fund.

(1) Projections of such future cash flows shall take into account:

1. Known plan sponsor withdrawals, and

2. A prudent estimate of future plan sponsor withdrawals. The prudent estimate shall be based on company experience and other relevant criteria.

(2) A single valuation rate shall be determined, pursuant to subrule 96.10(6), equal to the lesser of:

1. The expected return from the segregated portfolio of assets, or

2. The blended spot rate based on the duration of the segregated portfolio of assets.

(3) The single valuation rate shall be used to model future market values of the segregated portfolio of assets. Future credited interest rates shall be modeled according to the contractually defined crediting rate formula. Modeled future contract values shall reflect modeled future market values, modeled future credited interest rates, known future plan sponsor withdrawals, the prudent estimate of future plan sponsor withdrawals, future withdrawals pursuant to paragraph 96.10(7)“b,” and any remaining final payment at the modeled contract termination date.

(4) All such modeled withdrawals and termination payments shall be discounted using the single valuation rate and the modeled times of those withdrawals and payments. The sum of these present values shall be deemed the minimum value of the guaranteed contract liabilities for a pooled fund contract.

ITEM 10. Amend subparagraph **96.10(8)“g”(5)** as follows:

(5) Clearly describe how the valuation actuary has reflected withdrawal risks, if applicable, including a discussion of the positioning of the contracts within the benefit withdrawal priority order pertaining to the contracts, the impact of any dynamic lapse assumption and the results of sensitivity testing the prudent estimate of future plan sponsor withdrawals pursuant to paragraph 96.10(7)“c”;