191—96.10 (505,508) Reserves. This rule describes asset maintenance requirements for segregated portfolios governed by this chapter.

96.10(1) At all times, an insurer shall hold minimum reserves in the general account or one or more separate accounts, as appropriate, equal to the excess, if any, of the value of the guaranteed contract liabilities, determined in accordance with subrules 96.10(6) and 96.10(7), over the market value of the assets in the segregated portfolio less the deductions provided for in subrule 96.10(2). The reserve requirements of this subrule shall be applied on a contract-by-contract basis.

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."

96.10(3) To the extent that expected guaranteed contract benefits are denominated in the currency of a foreign country and are supported by segregated portfolio assets denominated in the currency of the foreign country, the percentage deduction for these assets under subrule 96.10(2) shall be that for a substantially similar investment denominated in the currency of the United States.

96.10(4) To the extent that expected guaranteed contract benefits are denominated in the currency of the United States and are supported by segregated portfolio assets denominated in the currency of a foreign country, and to the extent that expected guaranteed contract benefits are denominated in the currency of a foreign country and are supported by segregated portfolio assets denominated in the currency of the United States, the deduction for debt instruments under subrule 96.10(2) shall be increased by 15 percent of the market value of the assets unless the currency exchange risk on the assets has been adequately hedged, in which case the percentage deduction under subrule 96.10(2) shall be increased by 0.5 percent. No expected guaranteed contract benefits denominated in the currency of a foreign country shall be supported by segregated portfolio assets denominated in the currency of another foreign country without the approval of the commissioner. For purposes of this subrule, the currency exchange risk on an asset is deemed to be adequately hedged if:

a. It is an obligation of:

(1) A jurisdiction that is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency acceptable to the commissioner;

(2) Any political subdivision or other governmental unit of such a jurisdiction, or any agency or instrumentality of such a jurisdiction, political subdivision or other governmental unit; or

(3) An institution that is organized under the laws of any such jurisdiction; and

b. At all times the principal amount of the obligation and scheduled interest payments on the obligation are hedged against the United States dollar pursuant to contracts or agreements that are:

(1) Issued by or traded on a securities exchange or board of trade regulated under the laws of the United States or Canada or a province of Canada;

(2) Entered into with a United States banking institution that has assets in excess of $5 billion and that has obligations outstanding, or has a parent corporation that has obligations outstanding, that are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency, or with a broker-dealer registered with the Securities and Exchange Commission that has net capital in excess of $250 million; or

(3) Entered into with any other banking institution that has assets in excess of $5 billion and that has obligations outstanding, or has a parent corporation that has obligations outstanding, that are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency and that is organized under the laws of a jurisdiction that is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency.

96.10(5) Synthetic guaranteed investment contracts may provide for the allocation to one or more separate accounts of all or any portion of the amount needed to meet the asset maintenance requirement. If the contract provides that the assets in the separate account shall not be chargeable with liabilities arising out of any other business of the insurer, the insurer shall maintain in a distinct separate account that is so chargeable: that portion of the amount needed to meet the asset maintenance requirement that has been allocated to separate accounts, less the amounts contributed to separate accounts by the contract holder in accordance with the contract and the earnings on the contract.

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 spot rate supportable by the expected return from the segregated portfolio assets, and in no event greater than 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 the 30-year blended spot rate.

96.10(7) In calculating the value of guaranteed contract benefits:

a. All expected guaranteed contract benefits potentially available to the contract holder on an ongoing basis shall be considered in the valuation process and analysis, and the reserve held must be sufficient to fund the greatest present value of each independent expected guaranteed contract benefit. For purposes of this subrule, the right granted to the contract holder to exit the contract by discharging the insurer of its obligations under the contract and taking control of the assets in the segregated portfolio shall not be considered an expected guaranteed contract benefit.

b. To the extent that future guaranteed cash flows are dependent upon the benefit responsiveness of an employer-sponsored plan, a best estimate based on company experience, or other reasonable criteria if company experience is not available, shall be used in the projections of future cash flows.

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.

96.10(8) Actuarial opinion and memorandum for segregated portfolios are governed by this chapter.

a. An insurer that issues a synthetic guaranteed investment contract subject to this chapter shall submit to the commissioner annually by March 1 following the December 31 valuation date an actuarial opinion and, upon request, a memorandum showing the status of the accounts as of the prior December 31. The actuarial opinion and memorandum shall be in form and substance satisfactory to the commissioner.

b. The actuarial memorandum required by this chapter is deemed to be confidential to the same extent, and under the same conditions, as the actuarial memorandum required by Iowa Code section 508.36(2) *"d"*(8).

c. Except in cases of fraud or willful misconduct, the valuation actuary shall not be liable for damages to any person (other than the insurer and the commissioner) for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

d. The statement of actuarial opinion submitted in accordance with paragraph 96.10(2)*"a"* shall consist of:

(1) A paragraph identifying the valuation actuary and the valuation actuary's qualification;

(2) A scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the valuation actuary's work;

(3) A reliance paragraph describing those areas, if any, where the valuation actuary has deferred to other experts in developing data, procedures or assumptions;

(4) An opinion paragraph expressing the valuation actuary's opinion with respect to the matters described in subparagraphs 96.10(8)*"e"*(1) and (2); and

(5) One or more additional paragraphs which may be needed for individual companies in the following cases:

1. If the valuation actuary considers it necessary to state a qualification of the valuation actuary's opinion;

2. If the valuation actuary must disclose an inconsistency in the method of analysis used at the prior opinion date with that used for this opinion;

3. If the valuation actuary chooses to add a paragraph briefly describing the assumptions which form the basis of the actuarial opinion.

e. This paragraph describes the contents of the opinion paragraph of the actuarial opinion.

(1) The actuarial opinion shall state, after taking into account any risk charge payable, the segregated portfolio assets, and the amount of any reserve liability with respect to the asset maintenance requirement, that the account assets make adequate provision for expected guaranteed contract benefits.

(2) The opinion shall also state that:

1. Reserves for expected guaranteed contract benefits are calculated pursuant to the requirements of subrule 96.10(1);

2. After taking into account any reserve liability with respect to the asset maintenance requirement, the amount of the account assets satisfies the asset maintenance requirement;

3. The fixed-income segregated portfolio conforms to and justifies the rates used to discount expected guaranteed contract benefits for valuation pursuant to subrule 96.10(6);

4. Whether any rates used pursuant to subrule 96.10(6) to discount expected guaranteed contract benefits and other items applicable to the segregated portfolio were modified from the rate or rates described in the plan of operation filed pursuant to rule 191—96.5(505,508); and

5. The level of risk charges, if any, retained in the general account is appropriate in view of such factors as the nature of the expected guaranteed contract benefits and losses experienced in connection with contracts and other pricing factors.

f. The opinion shall be accompanied by a certificate from an officer of the insurer responsible for monitoring compliance with the asset maintenance requirements for synthetic guaranteed investment contracts describing the extent to and manner in which, during the preceding year:

(1) Actual benefit payments conformed to the benefit payment estimated to be made as described in the plan of operation;

(2) The determination of the fair market value of the segregated portfolio conformed to the valuation procedures described in the plan of operation, including a statement of the procedures and sources used during the year; and

(3) Any assets were transferred to or from the insurer's general account or any amounts were paid to the insurer by any contract holder to support the insurer's guarantee.

g. The actuarial memorandum shall:

(1) Substantially conform with those portions of 191—subrule 5.34(7) that are applicable to asset adequacy testing and that either:

1. Demonstrate the adequacy of account assets based upon cash flow analysis, or

2. Explain why cash flow testing analysis is not appropriate, describe the alternative methodology of asset adequacy testing used, and demonstrate the adequacy of account assets under that methodology;

(2) Clearly describe the assumptions the valuation actuary used in support of the actuarial opinion, including any assumptions made in projecting cash flows under each class of assets, and any dynamic portfolio hedging techniques utilized and the tests performed on the utilization of the techniques;

(3) Clearly describe how the valuation actuary has reflected the cost of capital;

(4) Clearly describe how the valuation actuary has reflected the risk of default on obligations and mortgage loans, including obligations and mortgage loans that are not investment grade;

(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"*;

(6) If the plan of operation provides for investments in segregated portfolio assets other than United States government obligations, demonstrate that the rates used to discount contract liabilities pursuant to subrule 96.10(6) conservatively reflect expected investment returns, taking into account any foreign exchange risks;

(7) If the contracts provide that in certain circumstances the contracts would cease to be funded by a segregated portfolio and instead would become contracts funded by the general account, clearly describe how any increased reserves would be provided for if and to the extent these circumstances occur;

(8) State the amount of account assets maintained in a separate account that are not chargeable with liabilities arising out of any other business of the insurer;

(9) State the amount of reserves and supporting assets as of December 31 and where the reserves are shown in the annual statement;

(10) State the amount of any contingency reserve carried as part of surplus;

(11) State the market value of the segregated asset portfolio; and

(12) Where separate account assets are not chargeable with liabilities arising out of any other business of the insurer, describe how the level of risk charges payable to the general account provides an appropriate compensation for the risk taken by the general account.

96.10(9) When the insurer issues a synthetic guaranteed investment contract and complies with the asset maintenance requirements of subrule 96.10(1), the insurer need not maintain an asset valuation reserve with respect to those account assets.

96.10(10) This subrule describes the reserve valuation requirements for contracts subject to this chapter.

a. Reserves for synthetic guaranteed investment contracts subject to this chapter shall be an amount equal to the sum of the following:

(1) The amounts determined as the minimum reserve as required under subrule 96.10(1);

(2) Any additional amount determined by the insurer's valuation actuary as necessary to make adequate provision for all expected guaranteed contract benefits; and

(3) Any additional amount determined as necessary by the commissioner due to the nature of the expected guaranteed contract benefits.

b. The amount of any reserves required by paragraph 96.10(4)*"a"* may be established by either:

(1) Allocating sufficient assets to one or more separate accounts; or

(2) Setting up the additional reserves in the general account.

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