ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING AND CREATING A RULE

To amend Ins 2.81(4) (c);

To create Ins 2.81(5) (e) 4., Wis. Adm. Code,

Relating to use of the 2001 CSO Preferred Class Structure Mortality Table in determining reserve liabilities.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. **Statutes interpreted:**

   ss. 600.01, 601.41(3), 601.42, 623.06 and 632.43, Stats.

2. **Statutory authority:**

   ss. 600.01 (2), 600.13, 601.41 (3), 601.42, 623.04, 623.06, and 632.43, Stats.

3. **Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

   The proposed rule is promulgated under the commissioner's authority to prescribe valuation of reserve liabilities and accounting standards and reporting for insurers.

4. **Related statutes or rules:**

   The proposed rule relates to existing rules prescribing valuation of liabilities, non-forfeiture values, and actuarial reporting and analysis under ss. 601.42, 623.06 and 632.43, Stats., and ss. Ins 2.80 and ch. 50, Wis. Adm. Code.

5. **The plain language analysis and summary of the proposed rule:**

   Existing provisions establish mortality tables to be used by insurers to calculate minimum reserves and requirements related to testing and reporting of actuarial information. Current rules allow insurers, meeting prescribed conditions, to use the 2001 CSO Preferred Class Structure Mortality Table as adopted by the National Association of Insurance Commissioners (NAIC) at the September, 2006, national meeting and published in the NAIC Proceedings (Third Quarter 2006), in determining minimum reserves on policies written after January 1, 2007. The proposed rule makes the 2001 CSO Preferred Class Structure Mortality Table available for use in determining minimum reserves on policies written starting January 1, 2005 and prior to January 1, 2007 with consent of the commissioner if additional conditions are met. The proposed rule will increase the ability of insurers and the commissioner to monitor financial status by reference to required reports as well as the financial examination process.

6. **Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

   There are no federal regulations which address use of mortality tables to establish reserve liabilities for insurers doing business in Wisconsin.

7. **Comparison of similar rules in adjacent states as found by OCI:**

Illinois: Il Adm. Code Tit. 50 s. 1412.20, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table, adopting the NAIC model regulation. The state is considering action to apply the model regulation retrospectively to business in force.

Iowa: Iowa Adm. Code 191-94.3, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table, adopting the NAIC model regulation. The state has not taken action to apply the model regulation retrospectively to business in force.

Michigan: Mich. Comp. Laws, s. 500.838a, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table, adopting the NAIC model regulation. The state has not taken action to apply the model regulation retrospectively to business in force.

Minnesota: Minn. R. s. 2748, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table, adopting the NAIC model regulation. The state has not taken action to apply the model regulation retrospectively to business in force.

8. **A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

The existing rule allows insurers, meeting prescribed conditions, to use the 2001 CSO Preferred Class Structure Mortality Table to reflect differences in mortality between preferred and standard lives in determining reserves to more precisely fit the characteristics of policies written after January 1, 2007. The proposed rule will allow insurers, under prescribed conditions to use the 2001 CSO Preferred Class Structure Mortality Table retrospectively to determine minimum reserves for policies issued during the period January 1, 2005 to January 1, 2007, and will enhance the ability of insurers and regulators to monitor financial status. The proposed rule follows a model recommended by the NAIC Life Insurance and Annuities (A) Committee, which has been adopted or is under consideration in other states.

9. **Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

This rule relates to insurer determination of minimum reserves, and there is no significant effect on small business.

10. **See the attached Private Sector Fiscal Analysis.**

11. **A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses.

12. **Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: **http://oci.wi.gov/ocirules.htm**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110
Email: Inger.Williams@oci.state.wi.us
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

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Legal Unit - OCI Rule Comment for Rule Ins 281
Office of the Commissioner of Insurance
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Street address:

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Web site: **http://oci.wi.gov/ocirules.htm**

The rule changes are:

Section 1. Section Ins 2.81(4) (c) is amended to read:

Ins 2.81(4) (c). At the election of the insurer, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this paragraph and sub. (5) (e) 1. to 3., the 2001 CSO preferred class structure mortality table may be elected in place of the smoker mortality table found in the 2001 CSO mortality table or the nonsmoker mortality table found in the 2001 CSO mortality table or both as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2005, and prior to January 1, 2007, the 2001 CSO preferred class structure mortality table may be elected in place of the smoker and nonsmoker mortality tables found in the 2001 CSO mortality table with the consent of the commissioner and subject to the conditions of sub. (5) (e) 1. to 4. In considering a request by a foreign insurer for such consent, the commissioner may rely on the consent of the commissioner of the foreign company's state of domicile. No such election may be made until the insurer demonstrates to the commissioner in a form acceptable to the commissioner that at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO preferred class structure mortality table used in place of a 2001 CSO mortality

table, pursuant to the requirements of this section, will be treated as part of the 2001 CSO mortality table only for purposes of reserve valuation.

Section 2. Section Ins 2.81(5) (e) 4. is created to read:

Ins 2.81(5) (e) 4. The use of the 2001 CSO preferred class structure mortality table for the valuation of policies issued prior to January 1, 2007 is not permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, as specified under subd. Par. a. or b. below:

> a. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this subdivision paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that provides coverage for the period from the next policy premium due date to the end of the policy year or the next reinsurance premium due date whichever is earlier, and that would be refunded to the ceding entity upon the termination of the policy.
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> b. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this subdivision paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

For purposes of this condition, both the reserve credit and the gross reserve before reinsurance for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and for the mid-terminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO preferred class structure table.

Section 3. INITIAL APPLICABILITY. These changes first apply to policies issued on January 1, 2005.

Section 4. EFFECTIVE DATE. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 24th day of June, 2010.

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Sean Dilweg
Commissioner of Insurance

Office of the Commissioner of Insurance
Private Sector Fiscal Analysis

for Section Ins 2.81 relating to use of the 2001 CSO Preferred Class Structure Mortality Table in determining reserve liabilities

This rule change will have no significant effect on the private sector regulated by OCI.