

Comment #5 – 7/12/19 – 1:20 p.m.

Actuarial Standards Board,

Following are comments related to ASOP No. 2 – Nonguaranteed Charges or Benefits for Life Insurance Policies and Annuity Contracts.

I am submitting these comments on my own behalf. The opinions contained in this document are my own and do not necessarily reflect the opinion of my employer or its employees.

I believe that, in several instances, this draft ASOP is venturing into areas best handled by regulation. It is highly prescriptive as to determination of NGEs rather than, as is typical in ASOPs and in my view more appropriate, providing areas of consideration for the actuary determining NGEs. The ASB should not, intentionally or not, perform the role of regulators or legislators, or override insurance policy contractual language.

I also believe that, as currently drafted, this ASOP will have multiple unintended, detrimental consequences.

Example 1:

Section 3.2 provides highly prescriptive guidance:

The actuary should provide advice on developing, modifying, or applying the determination policy that is consistent with the following:

- a. NGEs for in-force products are revised only if the anticipated experience factors have changed since issue or since the previous revision; and
- b. NGEs for in-force products are not revised with the objective of recouping past losses or distributing past gains.

These restrictions would seem to venture into regulation, not common “actuarial practice”. And they are not as straightforward as they seem...indeed in item b. “recouping past losses” is a subjective term and very difficult to define.

With respect to item a., there may be other legitimate reasons for modifying an NGE even if the underlying anticipated experience factor has not changed. Many actuaries might consider a change in tax rates or a change in reserve or capital requirements an appropriate reason to change an NGE, if not precluded by contract language, statute, or regulation.

For an ASOP, it seems much more appropriate to change 3.2 to require the actuary to “consider” whether anticipated experience factors have changed and whether the proposed changes would, in the actuary’s opinion, recoup past losses/distribute past gains (rather than setting absolute standards), perhaps something like:

When providing advice on developing, modifying, or applying the determination policy, the actuary should consider:

- a. whether the anticipated experience factors have changed since issue or since the previous revision; and
- b. whether the proposed changes to NGEs would recoup past losses or distribute past gains.

Example 2:

Currently drafted, 3.4.2.4 states:

When determining revised NGE scales, the actuary should...

c. determine new NGE scales such that the prospective profitability from the time of revision, including the prospective pattern of profits by duration, is not greater than that using the original NGE scales and original anticipated experience factors, holding all other assumptions constant.

This again is a matter (restrictions on setting NGEs) that should be covered by regulation and contract language, not by an ASOP.

- It is simply not practical or feasible for some NGEs to precisely match originally pricing profitability assumptions by duration for each policy.
- The draft contains no language about materiality threshold with respect to meeting this standard.
- What profit metric is intended to be used for this test? Dollars of profit (but what if in-force is very different than expected)? Return on Assets held to support the product (but what if minimal assets are held to support)? Annual future profit over premium (but what if no further premium is required)? Choice of metric would have major impact on the assessment.
- What if RBC or rating agency capital requirements change? Or reserve requirements? Or tax rates? It would appear such a change could not be reflected in determining NGEs (since have to hold “all other assumptions constant”). I believe such changes should be able to be reflected in the absence of contractual or regulatory/legal constraint.
- The impact of multiple deviations in anticipated experience is often greater than the sum of impacts of individual deviations. An ASOP should not put an absolute constraint of holding all other assumptions constant in the determination of an NGE (any contract language or regulatory/legal constraints should of course be followed).
- There appears to be no provision in the ASOP for deviating from 3.4.2.4.c. Most ASOPs have a provision permitting deviations from standard so long as it is documented, and at a minimum such ability to deviate (with documentation) should be added.
- Unintended consequence: Many companies have decreased post-level term premiums to retain more policyholders beyond the end of the level term period, thereby, lowering the mortality rate on the remaining post-level term block. This is good for policyholders; premiums are lower. It is also good for companies as they retain more profitable business. However, it seems like this relatively common, policyholder-friendly, change to indeterminate premiums would not be permitted under the draft ASOP language.

As can be seen, there are numerous issues with 3.4.2.4.c. It could appropriately be struck completely, and this is the best choice. Alternatively, it could be rewritten to “consider” prospective profitability (rather than setting an absolute standard about prospective profitability), perhaps something like

When determining revised NGE scales, the actuary should...

c. consider whether the new NGE scales are such that the prospective profitability from the time of revision is reasonable relative to that using the original NGE scales and original anticipated experience factors.

Example 3:

As another unintended consequence, the pseudo-regulatory approach of the ASOP may put the actuary in an untenable position. It is possible that non-actuarial management may wish to make a change to NGEs that is not contrary to regulation, statute, or contract language. However, it might conflict with the current draft language for 3.2 or 3.4.2.4.c. that provides absolute standards for setting NGEs. While the actuary could discuss with management why the change would violate the revised ASOP 2, there may be nothing the actuary can do to prevent the change from being made. Additionally, since the change is not contrary to regulation, statute, or contract language, it is likely management could appropriately make the change.

The previously proposed revisions to language in 3.2 and 3.4.2.4.c would avoid this issue.

Thank you for your efforts; the ASB work is valuable, and the ASOPs are very important to the profession.

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