



**ACTUARIAL STANDARDS BOARD**

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**• SECOND EXPOSURE DRAFT •**

**Proposed Revision of  
Actuarial Standard of Practice No. 2**

**Nonguaranteed Elements  
for Life Insurance and Annuity Products**

**Comment Deadline:  
November 13, 2020**

**Developed by the  
Task Force to Revise ASOP No. 2 of the  
Life Committee of the  
Actuarial Standards Board**

**Approved for Exposure  
by the Actuarial Standards Board  
June 2020**

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June 2020

**TO:** Members of Actuarial Organizations Governed by the Standards of Practice of the Actuarial Standards Board and Other Persons Interested in Nonguaranteed Elements for Life Insurance and Annuity Products

**FROM:** Actuarial Standards Board (ASB)

**SUBJ:** Proposed Revision of Actuarial Standard of Practice (ASOP) No. 2

This document contains the second exposure draft of a proposed revision of ASOP No. 2, now titled *Nonguaranteed Elements for Life Insurance and Annuity Products*. Please review this exposure draft and give the ASB the benefit of your comments and suggestions. Each written comment letter or e-mail received by the comment deadline will receive consideration by the drafting committee and the ASB.

The ASB requests comments be provided using the Comments Template that can be found [here](#) and submitted electronically to **comments@actuary.org**. Include the phrase “ASB COMMENTS” in the subject line of your message. Please note: Any message not containing this exact phrase in the subject line will be deleted by our system’s spam filter. Also, please indicate in the template and in the body of the email if your comments are being submitted on your own behalf or on behalf of a company or organization.

The ASB posts all signed comments received to its website to encourage transparency and dialogue. Comments received after the deadline may not be considered. Anonymous comments will not be considered by the ASB nor posted to the website. Comments will be posted in the order that they are received. The ASB disclaims any responsibility for the content of the comments, which are solely the responsibility of those who submit them.

For more information on the exposure process, please see the ASB Procedures Manual.

**Deadline** for receipt of comments in the ASB office: November 13, 2020

### History of the Standard

In 1986, the Interim Actuarial Standards Board adopted the original version of ASOP No. 2, which was titled *The Redetermination (or Initial Determination) of Non-Guaranteed Charges and/or Benefits for Life Insurance and Annuity Contracts*. In 1990, the ASB adopted a reformatted version of ASOP No. 2. (Prior to 2013, ASOP No. 2 was numbered ASOP No. 1.)

In 1995, the ASB adopted ASOP No. 24, *Compliance with the NAIC Life Insurance Illustrations Model Regulation*, which was created in conjunction with the National Association of Insurance Commissioners’ (NAIC) *Life Insurance Illustrations Model Regulation (the Model)*. The *Model* itself was drafted to accomplish specific regulatory objectives. ASOP No. 24 provides guidance for compliance with the *Model*. With respect to illustrated nonguaranteed elements (NGEs) for

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life insurance policies and annuity products that are not subject to or represented as being in accordance with the *Model*, the 2004 revision of ASOP No. 2 imposed new obligations on the actuary.

Since ASOP No. 2 was last updated in 2004, there has been increased attention to the practices insurers use to determine and manage NGEs within individual life insurance and annuity products. The ASOP is being updated to reflect current practices and provide additional guidance on the determination of NGEs. In developing this revision, the task force reviewed and incorporated concepts from documents that supported the development of the original version of this ASOP in 1986.

### **First Exposure Draft**

The first exposure draft was issued in March 2019 with a comment deadline of July 15, 2019. Sixteen comment letters were received and considered in making changes that are reflected in the second exposure draft.

For a summary of issues contained in these comment letters, please see appendix 2.

### **Notable Changes from the First Exposure Draft**

Notable changes made to the second exposure draft are summarized below. Additional changes were made to improve readability, clarity, or consistency.

1. Section 1.2 was clarified to state that determinations of NGEs on in-force policies that were issued before the ASOP took effect are in scope.
2. In section 2.1, reinsurance and taxes were removed from the list of examples of anticipated experience factors and included as items to take into account, if applicable, in sections 3.2 and 3.4.
3. In section 2.4, the definition of nonguaranteed element (NGE) was expanded to clarify that NGEs reflect expectations of future experience.
4. In section 2.7, the definition of “policy” was clarified to include any attached rider or endorsement.
5. In sections 3.2.1 and 3.3.1, language was added to allow the actuary to consider other relevant items or additional factors.
6. In section 3.4, guidance that the actuary should “take into account illustration requirements” was replaced with guidance that the actuary “may take into account any practical constraints and any other relevant circumstances.”
7. In section 3.4, guidance was added that would apply if the actuary believes there is a conflict between following the determination policy when determining NGE scales and the guidance in sections 3.2 and 3.2.1.

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8. In section 3.4.1, the requirement to include “pattern of profits” when taking into account “expected profitability” was deleted and consideration of constraints from section 3.4.2.4(c) was moved to a new item (g).
9. In section 3.4.2.3, a new item (b) was added, item (c) was deleted, and item (f) was modified to require the actuary to take into account, if applicable, “additional factors for which a change may be reflected in the determination of NGEs under section 3.2(b), the terms of the policy, and applicable law.”
10. In section 3.4.2.4, item (c) was modified to allow for any method that is consistent with sections 3.2(a) and 3.2(b), and the reference to “pattern of profits” was changed to an example. The guidance was also expanded to allow the actuary to use approximation and smoothing methods.
11. Section 3.4.2.5 was added to allow the actuary to take into account anticipated experience factors that were not part of the previous determination of NGE scales.
12. A new section 3.9, Reliance on Another Actuary, was added.
13. In section 4.1, guidance that the actuary should issue an actuarial report in accordance with ASOP No. 41, *Actuarial Communications*, was restored, and changes were made to reflect changes made in section 3.

### Notable Changes to the Existing ASOP Resulting from All Exposures

A cumulative summary of the notable changes from the existing ASOP are summarized below.

1. In section 1.2, the scope was clarified, and reinsurance transaction-related nonguaranteed elements were excluded from the scope.
2. In section 2, the definitions were expanded and clarified.
3. In section 3.1, the concept of an insurer’s NGE framework, which includes the determination policy, how policy classes are established, and the practices used to determine NGE scales, was introduced.
4. In section 3.2, guidance was expanded for advising on the actuarial aspects of the determination policy, including advice that is consistent with the following:
  - a. NGE scales are determined with the expectation that they will be revised only if anticipated experience factors have changed since issue or, alternatively, since the previous revision, and

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- b. NGE scales are determined based on reasonable expectations of future experience and are not determined with the objective of recouping past losses or distributing past gains.
- 5. In section 3.3, guidance for establishing or making changes to policy classes was expanded.
- 6. In section 3.4, guidance for determining NGE scales to align with the determination policy guidance, terms of the policy, and applicable law was expanded, and new guidance allows the actuary to take into account anticipated experience factors that were not part of the previous determination of NGE scales.
- 7. In section 3.5, guidance for recommending NGE scales used in illustrations was updated.
- 8. In section 3.6, guidance for regulatory opinions and disclosures was added.
- 9. In sections 3.7, 3.8, and 3.9, guidance for relying on data or other information supplied by others, relying on assumptions selected by another party, and reliance on another actuary was added.
- 10. In section 3.10, documentation requirements were added.
- 11. In section 4, disclosure requirements were added, mostly to address expanded guidance throughout section 3.

### **Request for Comments**

The ASB appreciates comments and suggestions on all areas of this proposed standard. Rationale for any suggested changes would be helpful.

The ASB voted in June 2020 to approve this exposure draft.

Task Force to Revise ASOP No. 2

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*The Actuarial Standards Board (ASB) sets standards for appropriate actuarial practice in the United States through the development and promulgation of Actuarial Standards of Practice (ASOPs). These ASOPs describe the procedures an actuary should follow when performing actuarial services and identify what the actuary should disclose when communicating the results of those services.*

**ACTUARIAL STANDARD OF PRACTICE NO. 2**

**NONGUARANTEED ELEMENTS  
FOR LIFE INSURANCE AND ANNUITY PRODUCTS**

**STANDARD OF PRACTICE**

**Section 1. Purpose, Scope, Cross References, and Effective Date**

- 1.1 **Purpose**—This actuarial standard of practice (ASOP) provides guidance to actuaries when performing actuarial services with respect to the determination of **nonguaranteed elements** (NGEs) for life insurance and annuity products, including riders attached to such products.
- 1.2 **Scope**—This standard applies to actuaries when performing actuarial services with respect to the determination and, if applicable, illustration of **NGEs** for all life insurance and annuity **policies** written on individual **policy** forms where **NGEs** may vary at the discretion of the insurer (except as provided below). This would include determination of **NGEs** on in-force policies that were issued before the ASOP took effect. Throughout this standard, the term *determination* includes both initial determination and subsequent redeterminations. The standard also applies to actuaries when performing similar actuarial services for group master contracts with individual certificates where **NGEs** are determined in a similar manner to products written on individual life and annuity **policy** forms. Examples of products within the scope of this standard include universal life, indeterminate premium life, and deferred annuity products. Such products may be fixed, variable, or indexed.

Actuarial services for group products with **NGEs** that are not determined in a similar manner to those written on individual life and annuity **policy** forms are not in scope. Two examples are traditional group term life insurance and certain retirement funding products (for example, synthetic guaranteed interest contracts). To the extent that actuarial services for a product do not clearly fall into the scope, the actuary should use professional judgment to determine whether the services are in scope.

This standard does not apply to actuaries when performing actuarial services with respect to policyholder dividends, which are covered by ASOP No. 15, *Dividends for Individual Participating Life Insurance, Annuities, and Disability Insurance*. To the extent that a product involves both **NGEs** and policyholder dividends, this standard applies to actuaries when performing actuarial services with respect to **NGEs**, and ASOP No. 15 applies to actuaries when performing actuarial services with respect to policyholder dividends.

This standard does not apply to actuaries when performing actuarial services with respect to the determination of any nonguaranteed element in a reinsurance contract.

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This standard does not apply to actuaries when performing actuarial services with respect to illustrations of NGEs subject to ASOP No. 24, *Compliance with the NAIC Life Insurance Illustrations Model Regulation*.

If the actuary departs from the guidance set forth in this standard in order to comply with law (statutes, regulations, and other legally binding authority), or for any other reason the actuary deems appropriate, the actuary should refer to section 4. If a conflict exists between this standard and applicable law, the actuary should comply with applicable law.

- 1.3 Cross References—When this standard refers to the provisions of other documents, the reference includes the referenced documents as they may be amended or restated in the future, and any successor to them, by whatever name called. If any amended or restated document differs materially from the originally referenced document, the actuary should consider the guidance in this standard to the extent it is applicable and appropriate.
- 1.4 Effective Date—This standard is effective for actuarial work performed on or after four months after adoption by the Actuarial Standards Board.

### Section 2. Definitions

The terms below are defined for use in this actuarial standard of practice and appear in bold throughout the ASOP.

- 2.1 Anticipated Experience Factor—An assumption of future experience used in the determination of NGEs. Examples of **anticipated experience factors** include rates of investment income, mortality, morbidity, **policy** persistency, and expense.
- 2.2 Determination Policy—The insurer’s principles or objectives for determining NGEs. For example, the **determination policy** could include the insurer’s governing principles and requirements, profitability objectives, capital objectives, guidelines for drafting **policy** provisions related to NGEs, principles for addressing illustration requirements, and requirements for and frequency of reviews of NGEs on in-force products.
- 2.3 Guaranteed Element—A premium, value, charge, or benefit that limits an NGE. **Guaranteed elements** are specified in the **policy**. Examples of **guaranteed elements** include maximum premium charges, maximum expense charges, minimum credited interest rates, maximum cost of insurance charges, maximum gross premiums, minimum index parameters, maximum mortality and expense (M&E) risk charges, and maximum **policy** loan interest rates.
- 2.4 Nonguaranteed Element (NGE)—Any premium, charge, or benefit within an insurance **policy** that affects **policy** costs or values, is not guaranteed in the **policy**, and can be changed at the discretion of the insurer. An NGE may provide a more favorable value to the policyholder than an element that is guaranteed in the **policy**. For the purpose of this ASOP, an NGE reflects expectations of future experience as opposed to a dividend, which

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reflects participation in past experience. Examples of nonguaranteed charges or benefits include credited interest, cost of insurance (COI) charges, bonuses, indeterminate premiums, index parameters, and expense charges.

- 2.5 NGE Framework—The combination of the **determination policy**, how **policy classes** are established, and the practices used to determine **NGE scales**.
- 2.6 NGE Scale—A series of one or more premiums, charges, or benefits, which are not guaranteed and can be changed over time. For example, an **NGE scale** for COI charges could be set based on issue age, underwriting class, and duration.
- 2.7 Policy—An individual life insurance policy, an individual annuity contract, or a group certificate that has **NGEs** that operate in substantially the same manner as **NGEs** in an individual life insurance policy or an individual annuity contract. A **policy** includes any attached rider or endorsement.
- 2.8 Policy Class—**Policies** that are grouped together for the purposes of determining an **NGE**.
- 2.9 Profitability Metric—A measurement used to assess a product’s expected level of financial results.

### Section 3. Analysis of Issues and Recommended Practices

- 3.1 NGE Framework—The actuary should understand the insurer’s **NGE framework**, if any, in relation to the actuarial services requested. The actuary should consider how the **NGE framework** has been applied in the past in relation to the actuarial services requested, if available.

Examples of items commonly found within the **NGE framework** include the following:

- a. a description of the **determination policy**;
- b. the methodology for establishing **policy classes**;
- c. the methodology for evaluating experience and developing **anticipated experience factors**;
- d. the frequency of review of **anticipated experience factors** and **policy classes**;
- e. the methodology for allocating income and costs;
- f. the models or methods used;
- g. the marketing objectives, such as distribution strategy, target markets, and competitive objectives;

- h. the objectives used in setting **profitability metrics**;
- i. the methodology for determining reserves and capital objectives; and
- j. the insurer’s governance process, including the decision and approval process.

If the **NGE framework** is absent, or in the actuary’s professional judgment, is incomplete or needs to be updated to reflect the current environment, the actuary should recommend that the **NGE framework** be created, completed, or updated.

3.2 Providing Advice on the Actuarial Aspects of the Determination Policy—The actuary may provide advice on 1) developing or modifying the **determination policy**, or 2) applying the **determination policy**.

When providing advice on the actuarial aspects of the **determination policy**, the actuary should provide advice consistent with the following:

- a. **NGE scales** are determined with the expectation that they will be revised only if **anticipated experience factors** have changed since issue, or alternatively, since the previous revision; and
- b. **NGE scales** are determined based on reasonable expectations of future experience and are not determined with the objective of recouping past losses or distributing past gains.

3.2.1 Providing Advice on Developing or Modifying the Determination Policy—When advising an insurer on developing or modifying its **determination policy**, the actuary should take into account the following, if applicable:

- a. the **policy** provisions and applicable law;
- b. how **anticipated experience factors** reflect expectations of future experience;
- c. how the variability and credibility of each **anticipated experience factor** may impact the determination of the **NGE scales**;
- d. the insurer’s marketing objectives;
- e. profitability, reserves, capital objectives, reinsurance, and taxes; and
- f. periodic review of **NGEs** in in-force **policies**, such as the maximum time period between successive insurer reviews of **NGEs**.

The actuary may take into account other items relevant to the **determination policy**.

The actuary should document the sources of the **determination policy** used in developing the advice and how (a)–(f) above and any additional relevant items were taken into account. For example, portions of the **determination policy** may be found in the insurer’s governance processes, corporate policies, or operating practices.

3.2.2 Providing Advice on Applying the Determination Policy—When advising on applying the **determination policy** for determining initial **NGE scales**, evaluating whether to revise existing **NGE scales**, or revising existing **NGE scales**, the actuary should take into account the following, if applicable:

- a. the need to make additional assumptions about how the **determination policy** applies to the assignment;
- b. **guaranteed elements**, options, and other relevant provisions of the **policy**;
- c. impacts on or from reserve or capital objectives, or changes in such objectives;
- d. impact on or from reinsurance and taxation;
- e. applicable law (including, for example, for variable products, any constraints or other requirements imposed by applicable securities law);
- f. resources available; and
- g. the insurer’s goals, including marketing and financial objectives.

If, in the actuary’s professional judgment, the actuary believes that the **determination policy** may be inconsistent with the guidance in sections 3.2 and 3.2.1, the actuary should recommend that the **determination policy** be revised.

3.3 Establishment of or Changes to Policy Classes—When preparing for an assignment, the actuary should review the existing **policy classes** for the product or similar products within the insurer’s **NGE framework**.

3.3.1 For Future Sales of a New or Existing Product—If the **policy classes** for future sales have not been defined in the **NGE framework**, or if they have been defined, but in the actuary’s professional judgment are incomplete, do not reflect changing circumstances (for example, new underwriting practices, or new profit or marketing objectives), or are inconsistent with the items below, the actuary should recommend the establishment of or changes to the **policy classes** that are

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- a. consistent with the guidance in ASOP No. 12, *Risk Classification*;
- b. appropriate for each NGE (a particular **policy** may be assigned to one or more **policy classes** at issue based on **anticipated experience factors** and NGEs, for example, one **policy class** for credited interest and a different **policy class** for COI charges);
- c. appropriately reflective of differences within **anticipated experience factors** (for example, smoker versus nonsmoker mortality);
- d. refined appropriately to mitigate antiselection; and
- e. not expected to be redefined after issue.

When recommending **policy classes** for future sales, the actuary should take into account the **policy** provisions, the structure of **guaranteed elements** and NGEs, the date on which the recommended **policy classes** would take effect (for example, **policies** issued before or after a particular date could be in different **policy classes**), and the underwriting characteristics and marketing objectives for the product. The actuary may also take into account any additional relevant factors.

- 3.3.2 For In-Force Policies—The actuary should recommend that in-force **policies** remain assigned to their **policy classes**, unless there is new information that is material to the **anticipated experience factors** and supports reassigning the **policies** to different **policy classes**. For example, a change in one state’s premium tax that affects some **policies** within a **policy class** differently than it affects others could justify reassigning such **policies** to a different **policy class**.

In addition, the actuary may recommend combining **policy classes** if, in the actuary’s professional judgment, such combinations would be appropriate. For example, if the experience for a **policy class** is not credible, the **policy class** could be combined with other **policy classes** for the purposes of determining **anticipated experience factors**.

When recommending a change in the assignment of **policies** to **policy classes**, the actuary should follow the guidance in section 3.3.1.

- 3.4 Determination Process for NGE Scales—When determining **NGE scales** for a product in accordance with the **NGE framework**, the actuary should take into account the **determination policy** and the following:
- a. the appropriateness of the models, methods, and **profitability metrics**;
  - b. the relationship of each **NGE scale** to one or more **anticipated experience factors**;
  - c. the consistency of **NGE scales** with **policy** provisions;

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- d. any limits on **NGE scales** due to regulatory constraints;
- e. any limits on **NGE scales** due to **guaranteed elements**; and
- f. the relationship of **NGE scales** to reserves, capital, and surplus.

The actuary may take into account any practical constraints and any other relevant circumstances.

The actuary may use approximation methods, such as smoothing and interpolation, when determining **NGE scales**.

If, in the actuary's professional judgment, the actuary believes that following the **determination policy** when determining **NGE scales** would conflict with the guidance in sections 3.2 and 3.2.1, the actuary should document the conflict and should consider providing advice consistent with section 3.2.2.

3.4.1 Determination Process for Future Sales of a New or Existing Product—When determining **NGE scales** for future sales of a new or existing product, the actuary should take into account the following:

- a. how **anticipated experience factors** were developed and whether they reflect the product's features, intended markets, distribution methods, underwriting procedures, and **policy classes** (see section 3.3.1);
- b. how **NGE scales** are structured to cover costs under the product design, as well as the potential impact on profitability if policyholder behavior varies from expectations;
- c. that **NGE scales** are determined with the expectation that they will not be revised unless the **anticipated experience factors** change;
- d. whether the **NGE scales** are consistent with the language of the **policy**;
- e. expected profitability;
- f. constraints on the ability to revise **NGE scales** to reflect future changes in **anticipated experience factors** (for example, **guaranteed elements**, contractual limitations, development and implementation cost, systems constraints); and
- g. how the guidance in section 3.4.2.4 may constrain the ability to revise **NGE scales** after issue.

The actuary may use prior analysis in the determination of the **NGE scales**, if appropriate.

The actuary should document the **NGE** determination process and results, including how items (a)–(g) and any prior analysis were taken into account.

The actuary should consider conducting sensitivity analysis to evaluate the impact of future deviations from the anticipated experience. The actuary should consider recommending how often such **anticipated experience factors** be reviewed.

3.4.2 Determination Process for In-Force Policies—The determination process for in-force **policies** consists of reviewing prior determinations, analyzing emerging experience relative to **anticipated experience factors**, considering whether to recommend a revision in the **NGE scales**, and, if a revision is to be made, determining the revised **NGE scales**.

3.4.2.1 Reviewing Prior Determinations—The actuary should review prior determinations, including the original determination in effect at the time of **policy** issue. This includes information such as previous **anticipated experience factors**, **profitability metrics**, pattern of profits, **NGE scales**, and other assumptions.

If the information related to prior determinations is not available or incomplete, the actuary should reconstruct prior determinations to the extent practicable and necessary for the determination process, and document the methods and assumptions used. If reconstructing the prior determinations is not practicable due to incomplete information or other limitations, the actuary should select and document a reasonable approach to gain an understanding of the prior determination.

3.4.2.2 Analyzing Experience—When analyzing how experience is emerging relative to **anticipated experience factors**, the actuary should take into account the following, if applicable:

- a. the time elapsed since the last analysis of experience;
- b. the credibility of experience;
- c. the size of the relevant group of **policies** or **policy classes**, such as number of **policies**, premium volume, insurance amount, or account value;
- d. the materiality of any change in the experience relative to the existing **anticipated experience factors**;

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- e. whether existing **anticipated experience factors**, including any projected trends, are supported by actual experience; and
- f. whether profitability was particularly sensitive to changes in any **anticipated experience factors**, as disclosed in previous actuarial reports.

The actuary should recommend that the **anticipated experience factors** be updated, if warranted by the results of the analysis.

The actuary should document how (a)–(f) above and any additional relevant items were taken into account.

### 3.4.2.3 Considering Whether to Recommend a Revision to NGE Scales—When considering whether to recommend a revision to **NGE scales**, the actuary should take into account the following, if applicable:

- a. time elapsed since **NGE scales** were last reviewed;
- b. the **anticipated experience factors** that are used for revising **NGE scales** under the terms of the **policy** and applicable law;
- c. deviations in emerging experience from what was assumed in the prior determination of **NGE scales**;
- d. how any recommended revision could affect reserves, capital, reinsurance, and taxation;
- e. the appropriateness of the **profitability metrics** and objectives. For example, an internal rate of return metric may have been used at issue, but a different metric may be appropriate when applied to in-force products;
- f. the change in the prospective profitability due to the change in **anticipated experience factors** and any additional factors for which a change may be reflected in the determination of **NGEs** under section 3.2(b), the terms of the **policy**, and applicable law;
- g. the complexity of the analysis needed. For example, when changing credited interest rates, the actuary may limit the analysis to changes in investment income, while other changes, such as COIs, may require more complex analysis and modeling, which could reflect multiple **anticipated experience factors** and require consideration of other **NGEs**;
- h. whether other analyses, such as sensitivity analysis, are needed;

- i. costs, practical implementation difficulties, and materiality of making revisions to the **NGE scale**; and
- j. potential impacts on the policyholder or insurer of revising or not revising **NGE scales** to reflect changes in **anticipated experience factors**.

The actuary should document the results of the analysis, including how (a)–(j) above and any additional relevant items were taken into account, whether the actuary recommends a revision or not.

3.4.2.4 Determining the Revised NGE Scales—When determining revised **NGE scales**, the actuary should take into account the provisions of section 3.4.1(b)–(g) and should

- a. identify, under the terms of the **policy** and applicable law, the **anticipated experience factors** that may be used when revising **NGE scales**;
- b. base the revision of the **NGE scales** on changes in the **anticipated experience factors** identified in (a) above; and
- c. determine new **NGE scales** using a method that is consistent with sections 3.2(a) and 3.2(b). For example, it might be appropriate to use a method to determine new **NGE scales** such that the prospective profitability from the time of revision, including the prospective pattern of profits by duration, is not materially greater than that using the original **NGE scales** and original **anticipated experience factors**, holding all other assumptions constant between the projections.

The actuary may use approximation and smoothing methods that are reasonable in relation to the costs and benefits provided.

The actuary should perform an appropriate level of analysis based on the **anticipated experience factors** and the type of revision being considered. (For example, changing COIs may require more complex analysis and modeling than changing credited interest rates, as discussed in section 3.4.2.3[g].) The actuary may use relevant prior analysis in making the determination. The actuary should document the results of any analysis used to support the determination of the revised **NGE scales**, including how the provisions of section 3.4.1(b)–(g) and any additional relevant items as noted above were taken into account.

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3.4.2.5 Additional Considerations—When recommending or determining a revision to **NGE scales**, the actuary may consider using additional **anticipated experience factors** that were not part of the previous determination of **NGE scales**.

3.5 NGEs Used in Illustrations Not Subject to ASOP No. 24—When recommending **NGE scales** to be used in an illustration not subject to ASOP No. 24, the actuary should follow applicable regulations, guidelines, and standards for illustrations, such as those that are based upon the following:

- a. *Annuity Disclosure Model Regulation* (Model 245); and
- b. *Variable Life Insurance Model Regulation* (Model 270) and NAIC Actuarial Guideline 15.

The actuary should consider conducting tests of illustrated **NGE scales** to ascertain whether those illustrated **NGE scales** could be supported by **anticipated experience factors** and other reasonable assumptions.

3.6 Providing Regulatory Opinions and Disclosures—When providing regulatory opinions and disclosures relating to **NGEs**, or actuarial services in support of such opinions and disclosures, the actuary should be knowledgeable about the requirements and information necessary to support the opinion or disclosure. Such information may include some or all of the following for the relevant products:

- a. the insurer's **NGE framework**;
- b. the requirements of applicable law;
- c. the determination process, including how experience and financial results are emerging; and
- d. previous regulatory filings.

3.7 Reliance on Data or Other Information Supplied by Others—When relying on data or other information supplied by others, the actuary should refer to ASOP No. 23, *Data Quality*, and ASOP No. 41, *Actuarial Communications*, for guidance.

3.8 Reliance on Assumptions or Methods Selected by Another Party—When relying on assumptions or methods selected by another party, the actuary should refer to ASOP No. 41 for guidance. The actuary should disclose the extent of any such reliance in the actuarial report.

3.9 Reliance on Another Actuary—The actuary may rely on another actuary who has performed actuarial services related to the determination of **NGEs**. However, the relying actuary should be reasonably satisfied that the other actuary is qualified to perform the

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actuarial service, the actuarial service was performed in accordance with applicable ASOPs, and the actuarial service performed is appropriate for the objective of the assignment. The actuary should disclose the extent of any such reliance.

- 3.10 Documentation—In addition to the documentation requirements throughout the rest of section 3, the actuary should consider preparing and retaining documentation to support compliance with the remaining requirements of section 3 and the disclosure requirements of section 4. When preparing any documentation, the actuary should prepare it in a form such that another actuary qualified in the same practice area could assess the reasonableness of the actuary's work or could assume the assignment if necessary. The degree of documentation should be based on the professional judgment of the actuary and may vary with the complexity and purpose of the actuarial services. In addition, the actuary should refer to ASOP No. 41 for guidance related to the retention of file material other than that which is to be disclosed under section 4.

### Section 4. Communications and Disclosures

- 4.1 Required Disclosures in an Actuarial Report—The actuary should issue an actuarial report in accordance with ASOP No. 41. In issuing the actuarial report, the actuary should refer to ASOP Nos. 12 and 23 and should disclose the following (if applicable):
- a. any recommendations that were made with respect to developing, completing, or updating the **NGE framework** (see section 3.1);
  - b. advice the actuary provided on developing or modifying the **determination policy** (see sections 3.2 and 3.2.1);
  - c. advice the actuary provided on how to apply the **determination policy**, including any advice that deviated from the **determination policy** in order to follow the guidance in sections 3.2 or 3.2.1 or that deviated from the guidance in sections 3.2 or 3.2.1 in order to comply with the **determination policy**, and the rationale for such deviations (see section 3.2.2);
  - d. recommendations made by the actuary to establish or change **policy classes** for future sales of a new or existing product (see sections 3.3.1 and 3.4.1[a]);
  - e. recommendations made by the actuary for reassignment of in-force **policies** to different **policy classes** (see section 3.3.2);
  - f. any conflict with the **determination policy** and the guidance in sections 3.2 and 3.2.1 when determining **NGE scales** (see section 3.4);
  - g. a description of the **anticipated experience factors** used in the determination of **NGEs** and any changes to such factors since any prior determination (see sections 3.4.1 and 3.4.2);

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- h. a description of any material constraints on the ability to revise **NGE scales** (see sections 3.4.1[f] and [g] and 3.4.2.4);
  - i. results, observations, or recommendations from the determination process for **NGE scales** for future sales of a new or existing product, including results and observations from any profitability analysis or sensitivity analysis (see section 3.4.1);
  - j. observations from the analysis that indicate that the profitability is particularly sensitive to changes in certain **anticipated experience factors** (see sections 3.4.1 and 3.4.2.3[h]);
  - k. any use of prior analysis (see section 3.4.1 and 3.4.2.4);
  - l. any reconstructed prior determinations or reasonable approaches used when reconstructing the prior determinations was not possible (section 3.4.2.1);
  - m. any recommendation that **anticipated experience factors** be updated and how these updated factors were taken into account when recommending changes to **NGE scales** (section 3.4.2.2);
  - n. observations or recommendations to revise or not revise in-force **NGE scales**, including results from any profitability or sensitivity analysis (see section 3.4.2.3);
  - o. results, observations, or recommendations from the determination process used to support any revisions to **NGE scales** for in-force products, including results and observations from any analysis (see section 3.4.2.4);
  - p. the circumstances and rationale for using any additional **anticipated experience factors** that were not part of the previous determination of **NGE scales** (see section 3.4.2.5); and
  - q. results from any tests of illustrated **NGE scales** not subject to ASOP No. 24 to ascertain whether those illustrated **NGE scales** could be supported by **anticipated experience factors** and other reasonable assumptions (see section 3.5).
- 4.2 Additional Disclosures in an Actuarial Report—The actuary should also include the following disclosures, when applicable, in an actuarial report:
- a. the disclosure in ASOP No. 41, section 4.2, if any material assumption or method was prescribed by applicable law (statutes, regulations, and other legally binding authority);
  - b. the disclosure in ASOP No. 41, section 4.3, if the actuary states reliance on other sources and thereby disclaims responsibility for any material assumption or method selected by a party other than the actuary; and

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- c. the disclosure in ASOP No. 41, section 4.4, if, in the actuary's professional judgment, the actuary has deviated materially from the guidance of this ASOP.

## **Appendix 1**

### **Background and Current Practices**

*Note:* This appendix is provided for informational purposes and is not part of the standard of practice.

#### Background

In the mid-1970s, activity increased with respect to individual life and annuity products with nonguaranteed elements (NGEs) as opposed to dividends under traditional participating policies.

Because of the increased activity on these products, they came to represent significant market share and financial significance, and it was deemed necessary to develop an actuarial standard of practice in this area. Thus, the Interim Actuarial Standards Board adopted the original version of ASOP No. 1 in October 1986. (Prior to 2013, ASOP No. 2 was known as ASOP No. 1.) The Actuarial Standards Board adopted a reformatted version of ASOP No. 1 in 1990.

In 1986, the policies in question were still evolving, and there was little standardization in such areas as benefit design, pricing structure, marketing practices, and investment philosophies. It was therefore impossible for the standard to offer guidance on these issues. Rather, the standard reflected that the actuary's essential obligations were (1) to assure the completion of all activities required to advise the client professionally; and (2) to prepare an actuarial communication for the client presenting this advice.

By the early 2000s, the volume of these products sold had continued to grow, and considerable product innovation had taken place. ASOP No. 1 was revised to reflect this new environment. It was also revised to be consistent, where appropriate, with newer standards ASOP No. 15, *Dividend Determination for Participating Individual Life Insurance Policies and Annuity Contracts*, and ASOP No. 24, *Compliance with the NAIC Life Insurance Illustrations Model Regulation*. The resulting revision of ASOP No. 1 was adopted in March 2004.

In May 2011, ASOP No. 1 was updated for deviation language, and in March 2013, it was renumbered ASOP No. 2.

In recent years, further developments affecting products with NGEs have taken place, such as the following:

- continued increase in the sales of products with NGEs;
- continued product evolution, including index features, persistency bonuses, living benefit riders, secondary guarantees, and new ancillary benefits;
- advances in actuarial techniques for modeling, stochastic testing, and sensitivity analysis;
- changes in life insurance company taxation, reserve valuation, and capital objectives;

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- enhancement of insurer governance procedures with respect to the determination of NGEs;
- increased public awareness of changes to NGEs for in-force policies; and
- increased regulation of NGEs, such as the promulgation of New York Regulation 210 in March 2018.

In response to such developments, actuarial practices have evolved, and ASOP No. 2 has been updated to reflect these changes.

### Current Practices

The actuary may provide professional services in three principal areas with respect to NGEs. The actuary is normally involved in the determination of NGE scales in accordance with insurer determination policy. The actuary may also be involved in advising the insurer on setting the determination policy or the establishment of or changes to policy classes. When determining NGEs, the actuary considers corporate governance practices, policy administration, regulation, marketing objectives, and consumer expectations, among other factors.

The actuary may be called upon to determine NGE scales for a new product or for future sales of an existing product, or to recommend revising NGE scales for in-force products. Although the steps needed to complete these two broad categories of assignments have many common elements, there are significant differences with respect to the principles, methodologies, and criteria that are commonly followed.

**Appendix 2**

**Comments on the First Exposure Draft and Responses**

The first exposure draft of this ASOP, *Nonguaranteed Elements for Life Insurance and Annuity Products*, was issued in March 2019 with a comment deadline of July 15, 2019. Sixteen comment letters were received, some of which were submitted on behalf of multiple commentators, such as by firms or committees. For purposes of this appendix, the term “commentator” may refer to more than one person associated with a particular comment letter. The ASOP No. 2 Task Force carefully considered all comments received, reviewed the exposure draft, and proposed changes. The ASB Life Committee and the ASB reviewed the proposed changes and made modifications where appropriate.

Summarized below are the significant issues and questions contained in the comment letters and the responses. Minor wording or punctuation changes that were suggested but not significant are not reflected in this appendix, although they may have been adopted.

The term “reviewers” in appendix 2 includes the ASOP No. 2 Task Force, the ASB Life Committee, and the ASB. Also, unless otherwise noted, the section numbers and titles used in appendix 2 refer to those in the first exposure draft.

<b>GENERAL COMMENTS</b>	
Comment	One commentator suggested adding guidance on reinsurance considerations when setting NGEs.
Response	The reviewers modified language in sections 3.2.1, 3.2.2, and 3.4.2.3 to include reinsurance.
Comment	One commentator suggested adding language to address principle-based reserves.
Response	Although the ASOP does not specifically mention principle-based reserves, the revised section 3.1 requires that the actuary take into account the methodology for determining reserves. There is further guidance with respect to reserves in sections 3.2.1, 3.2.2, 3.4(f), and 3.4.3(d). Also, the reviewers added section 3.4.2.5 to allow the actuary to consider using additional anticipated experience factors that were not part of previous determinations.
Comment	One commentator suggested making clear that examples are not exhaustive.
Response	The reviewers believe the language is clear and made no change.
Comment	One commentator suggested adding language to lists in section 3 to make clear the actuary may consider similar items consistent with the foregoing considerations and that consideration of each enumerated item is appropriate but not mandatory depending upon the circumstances.
Response	The reviewers made multiple changes in response to specific comments about lists throughout the draft.
Comment	One commentator recommended including language acknowledging that consideration of resources, costs, and burdens are appropriate when complying with the revised ASOP.
Response	The reviewers believe this concern is addressed in several sections, including sections 3.2.2, 3.4.1(f) and 3.4.2.3(i).

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Comment	Several commentators said compliance with some of the guidance contained in the draft would be difficult and, in some cases, provided examples.
Response	The reviewers responded to specific comments in the relevant sections.
Comment	Several commentators said the guidance was too prescriptive and, in some cases, provided examples.
Response	The reviewers responded to specific comments in the relevant sections.
Comment	One commentator said the ASOP was too prescriptive and imposed burdens on actuaries in areas where they may have limited influence or control and suggested the ASB withdraw the draft.
Response	The reviewers disagree with the suggestion to withdraw the draft and believe that some of the commentator’s concerns were addressed in responses to other comments.
<b>TRANSMITTAL MEMORANDUM</b>	
Comment	One commentator suggested removing language stating that the ASOP is being “updated to reflect current practice” and asked for clarification that the exposure draft is not intended to apply retroactively to determinations prior to the adoption date.
Response	The reviewers made no change to the transmittal letter in response to the comment and added language to clarify the scope.
<b>Question #1: Are there any areas where the guidance is inconsistent with current practice? If so, please explain or provide examples.</b>	
Comment	One commentator suggested that the ASOP imposes requirements on the actuary that may be in conflict with management.
Response	The reviewers believe these concerns were addressed in response to specific comments received in sections 3.2 and 3.4.
<b>Question #2: Are there areas where the guidance creates issues with any NGE regulatory requirements? If so, please explain or provide examples.</b>	
Comment	One commentator said that the National Association of Insurance Commissioners (NAIC) model Unfair Trade Practices Act allows the payment of bonuses or abatement of premiums out of surplus accumulated from nonparticipating insurance, and that this seems to conflict with section 3.2 of the exposure draft.
Response	The reviewers are not aware of any conflict, and in any event, actuaries must comply with applicable law.
<b>SECTION 1. PURPOSE, SCOPE, CROSS REFERENCES, AND EFFECTIVE DATE</b>	
<b>Section 1.2, Scope</b>	
Comment	One commentator was concerned that application to in-force policies could require significant changes to management practices that would not have been anticipated during initial product pricing.
Response	The reviewers clarified the scope to address the issue of applicability and believe the guidance is appropriate, even if it might mean some management practice might need to change.

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Comment	One commentator suggested that illustrations of NGEs should not be in the first paragraph of the scope of this ASOP because they are covered in ASOP No. 24, <i>Compliance with the NAIC Life Insurance Illustrations Model Regulation</i> , and other regulations.
Response	The reviewers note that the scope applies to annuities and variable life insurance illustrations but does not apply to actuaries when performing actuarial services with respect to illustrations of NGEs subject to ASOP No. 24 and made no change in response to this comment.
Comment	One commentator suggested this ASOP refer to ASOP No. 54, <i>Pricing of Life Insurance and Annuity Products</i> .
Response	The reviewers disagree and made no change.
Comment	One commentator suggested clarifying whether the scope would apply to actuaries in a management or other role that makes decisions on behalf of the company but do not perform actuarial services with respect to the determination of NGEs.
Response	The reviewers believe the guidance as drafted is sufficiently clear and made no change.
<b>SECTION 2. DEFINITIONS</b>	
<b>Section 2.1, Anticipated Experience Factor</b>	
Comment	Two commentators suggested adding more examples.
Response	The reviewers do not agree that more examples would be helpful, note that reinsurance and taxes were removed from the list of examples and included in sections 3.2 and 3.4 as items to take into account, if applicable.
Comment	One commentator recommended deleting “by an insurer.”
Response	The reviewers agree and made the change.
<b>Section 2.2, Determination Policy</b>	
Comment	One commentator suggested adding language to include principles on addressing illustration requirements and deleting the second-to-last sentence in section 3.4.
Response	The reviewers agree and made the change.
Comment	Two commentators recommended combining the definitions of “NGE Framework” and “Determination Policy.”
Response	The reviewers disagree and made no change.
Comment	One commentator asked for clarification of “guidelines for drafting product provisions.”
Response	The reviewers clarified the language.
<b>Section 2.3, Guaranteed Policy Factor (now Guaranteed Element)</b>	
Comment	One commentator suggested changing “Guaranteed Policy Factor” to “Guaranteed Policy Element” or “NGE Limit.”
Response	The reviewers agree and changed the term to “Guaranteed Element.”
Comment	One commentator suggested removing “minimum cash values,” changing “maximum policy loan interest rates” to “maximum policy loan charges,” and adding “maximum premium loads” and “maximum administrative charges” to the list of examples.
Response	The reviewers agree in part and removed “minimum cash values” and added “maximum premium charges” and “maximum expense charges.”

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<b>Section 2.4, Nonguaranteed Element</b>	
Comment	One commentator recommended deleting “in excess of the minimum guaranteed rate.”
Response	The reviewers agree and made the change.
Comment	One commentator recommended making the examples in section 2.4 parallel to those in section 2.3.
Response	The reviewers disagree and made no change.
Comment	One commentator suggested using “NGE Scales” in section 3 rather than “NGEs.”
Response	The reviewers note that the defined term “scale” was changed to “NGE scale” and references in section 3 were updated.
Comment	One commentator recommended listing the investment income spread as an example of an NGE.
Response	The reviewers disagree and made no change.
<b>Section 2.6, Policy (now section 2.7)</b>	
Comment	One commentator thought the language was confusing.
Response	The reviewers clarified the language.
Comment	One commentator suggested deleting this definition.
Response	The reviewers disagree and made no change.
<b>Section 2.8, Profitability Metric (now section 2.9)</b>	
Comment	One commentator suggested deleting this definition.
Response	The reviewers disagree and made no change.
<b>Section 2.9, Scale (now section 2.6, NGE Scale)</b>	
Comment	One commentator suggested the definition is incomplete and unclear.
Response	The reviewers clarified the definition and the example. The reviewers note that they changed “scale” to “NGE scale” in response to another comment.
<b>SECTION 3. ANALYSIS OF ISSUES AND RECOMMENDED PRACTICES</b>	
<b>Section 3.1, NGE Framework</b>	
Comment	One commentator suggested moving “The actuary should consider how the NGE framework has been applied in the past in relation to the actuarial services requested, if available” into the list of examples.
Response	The reviewers disagree and made no change.
Comment	One commentator suggested moving the sentence about whether “the NGE framework is incomplete or needs to be updated” to the end of the section.
Response	The reviewers agree and moved the sentence.
Comment	One commentator suggested adding “the cost of implementing changes” and “reserve requirements” to the list of examples.
Response	The reviewers added the methodology for determining reserves to the list of examples.

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Comment	One commentator asked whether, if policy class is defined at issue, it can later be redefined by how policies are grouped in the NGE Framework.
Response	The reviewers clarified the language in section 3.1(b) and note that section 3.3 gives guidance on establishing and modifying policy classes.
Comment	One commentator recommended using the defined term “establishing policy classes” vs. “grouping policies.”
Response	The reviewers agree and clarified the language in section 3.1(b).
Comment	One commentator suggested adding marketing objectives to section 3.1(f).
Response	The reviewers clarified the language in section 3.1(f) (now 3.1[g]) so that marketing objectives include items such as distribution strategy, target markets, and competitive objectives.
<b>Section 3.2, Issues and Considerations when Providing Advice on the Actuarial Aspects of the Determination Policy (now Providing Advice on the Actuarial Aspects of the Determination Policy)</b>	
Comment	Several commentators were concerned that the guidance is too prescriptive. For example, one commentator asked whether NGEs may be revised only if the anticipated experience factors have changed since issue.
Response	The reviewers clarified the language in section 3.2 and added section 3.4.2.5 to allow the actuary to consider using additional anticipated experience factors that were not part of previous determinations.
Comment	Several commentators said that treatment of past gains and losses is better left to regulation.
Response	The reviewers disagree and made no change in response to this comment.
Comment	One commentator suggested changing the guidance to “should consider” items (a) and (b).
Response	The reviewers disagree and made no change in response to this comment.
Comment	One commentator suggested removing the following language because they thought it was too prescriptive: “The actuary should provide guidance 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.”
Response	The reviewers disagree and made no change in response to this comment.
Comment	One commentator suggested that “the actuary may” in the first sentence contradicted “the actuary should” in the second sentence.
Response	The reviewers agree and revised the text accordingly.

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<b>Section 3.2(a)</b>	
Comment	Several commentators expressed concern that the guidance states that revisions to NGEs should be based only on changes in anticipated experience factors.
Response	The reviewers note that section 3.2(a) refers to the determination policy and made no change in response to this comment. The reviewers added section 3.4.2.5 to allow the actuary to consider using additional anticipated experience factors that were not part of previous determinations.
Comment	One commentator suggested that NGE changes could be phased in over time.
Response	The reviewers made no change in response to this comment.
Comment	One commentator suggested adding language to address deviations in situations in which the NGE framework is beyond the actuary’s control.
Response	The reviewers believe the guidance is sufficient and made no change.
Comment	One commentator suggested changing “in-force products” to “in-force policies” in sections 3.2(a), 3.2(b), 3.2.1(f), 3.3.2, and 3.4.2.
Response	The reviewers agree and modified the language.
Comment	One commentator suggested replacing “revised” or “revisions” with “redetermined” or “redetermination.”
Response	The reviewers disagree and made no change.
Comment	One commentator suggested that the guidance for advising on the determination policy is too prescriptive because it identifies a baseline for measuring the change.
Response	The reviewers believe the guidance, as modified, is appropriate for providing advice on the determination policy and made no change in response to this comment.
Comment	One commentator was concerned that the language could be interpreted to mean that a specific NGE scale could be changed only if its “corresponding” anticipated experience factor changed.
Response	The reviewers modified the language to remove unintended ambiguity.
<b>Section 3.2(b)</b>	
Comment	One commentator said it was unclear how this section applies to annuities and other account value-based insurance products.
Response	The reviewers disagree and made no change in response to this comment.
Comment	One commentator recommended adding a definition of “recouping past losses and distributing past gains.”
Response	The reviewers disagree and made no change in response to this comment.
<b>Section 3.2.1, Providing Advice on Developing or Modifying the Determination Policy</b>	
Comment	One commentator suggested moving the example from section 3.2.1(f) to section 3.2.1(a).
Response	The reviewers modified the example to emphasize consideration of the frequency of reviews.
Comment	One commentator suggested changing “should” document to “may” document.
Response	The reviewers believe the guidance is appropriate and therefore made no change in response to this comment.

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Comment	One commentator suggested that the six components in section 3.2.1 may not be internally consistent and suggested modifying the language to say “should consider.”
Response	The reviewers modified the language to say, “should take into account the following, if applicable.”
Comment	One commentator suggested modifying the language in sections 3.2.1(b) and 3.2.1(c) to be more consistent with the definition of determination policy.
Response	The reviewers agree and modified the language.
Comment	Two commentators suggested removing references to “reasonable margins” in section 3.2.1(e).
Response	The reviewers deleted “reasonable margins.”
<b>Section 3.2.2, Providing Advice on Applying the Determination Policy</b>	
Comment	One commentator suggested removing the first sentence because it is unnecessary and changing the second sentence from “should” to “may.”
Response	The reviewers combined the first two sentences and changed “should take into account the following” to “should take into account the following, if applicable” in response to this comment.
Comment	Two commentators suggested that the closing statement should provide more guidance to the actuary for matters that may be outside of their control.
Response	The reviewers agree and modified the language.
Comment	One commentator implied that scale needs to be clarified, as it can be a single element or multiple elements.
Response	The reviewers modified the definition of “scale” to “NGE scale,” so that all NGEs are included.
Comment	One commentator questioned whether section 3.2.2(c) should include other factors, such as expense assumptions and tax rates.
Response	The reviewers modified the language to include other factors.
<b>Section 3.2.2(a)</b>	
Comment	One commentator suggests the term “assumptions” with respect to the determination policy is confusing, as assumption could be pricing components.
Response	The reviewers modified the language.
<b>Section 3.2.2(c)</b>	
Comment	One commentator recommended adding capital requirements.
Response	The reviewers added “capital objectives.”
<b>Section 3.2.2(f) (now 3.2.2[g])</b>	
Comment	One commentator said that the items in (f) are already covered as part of the NGE framework.
Response	The reviewers modified the introduction to the list in response to another comment and therefore made no change to (f).

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<b>Section 3.3, Establishment of or Changes to Policy Classes</b>	
Comment	One commentator said that the guidance is more of a checklist than general principles and would be better left to a practice note.
Response	The reviewers believe the guidance given is appropriate for an ASOP and therefore made no change.
<b>Section 3.3.1, For a New Product or Future Sales of an Existing Product (now For Future Sales of a New or Existing Product)</b>	
Comment	One commentator asked whether the language allows the actuary to define and change policy classes as needed for the purposes of determining NGEs for a new product or for future sales of an existing product.
Response	The reviewers clarified the guidance in response to this and other comments.
Comment	One commentator asked whether the language limits the actuary’s ability to define policy classes according to the period in which the policies were issued.
Response	The reviewers believe the revised guidance in sections 3.3.1 and 3.3.2 is sufficient and made no further change.
Comment	One commentator suggested removing the reference to the time period over which policies are issued.
Response	The reviewers revised the language to clarify the concept.
Comment	One commentator suggested adding “and any additional factors the actuary believes are appropriate” at the end of section 3.3.1.
Response	The reviewers agree and revised the language.
Comment	One commentator suggested changing “conditions” to “considerations” and moving the last paragraph into the list of considerations.
Response	The reviewers removed “conditions” but made no other changes in response to this comment.
Comment	One commentator questioned whether the guidance in section 3.3.1(e) with respect to policy classes being established without the expectation that further modifications would be made after issue is applicable to annuities.
Response	The reviewers note that the definition of “policy” includes annuities and believe that the guidance in sections 3.3.1 and 3.3.2, as modified, is appropriate.
Comment	One commentator asked whether section 3.3.1(e) created the impression that policy classes can be changed after issue.
Response	The reviewers believe the guidance is appropriate and made no change.
<b>Section 3.3.2, For In-Force Products (now For In-Force Policies)</b>	
Comment	One commentator suggested the removal of the introductory statement of section 3.3.2 as it does not allow for an appropriate level of actuarial judgment to be applied.
Response	The reviewers disagree with this comment and made no change.
Comment	One commentator suggested adding language to also consider the similarity of policy types and anticipated experience factors, and the period over which the policies were issued in recommending changes to in-force policies.
Response	The reviewers believe that the guidance in sections 3.3.1 and 3.3.2, as modified, is sufficient.

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Comment	One commentator asked for more examples of new information that is material to the anticipated experience factors in support of assigning policies to different policy classes.
Response	The reviewers believe the guidance is sufficient and made no change.
<b>Section 3.4, Determination Process for NGE Scales</b>	
Comment	One commentator suggested addressing practical constraints.
Response	The reviewers agree and added “any practical constraints and any other relevant circumstances.”
Comment	One commentator questioned whether the guidance in section 3.4 conflicts with that in sections 3.2(a) and 3.2(b), if the company management rejects that actuary’s advice on determination policy.
Response	The reviewers added language in section 3.4 to address this comment.
Comment	One commentator recommended clarifying section 3.4(b) to state that a specific NGE may be determined based on a combination of anticipated experience factors and other assumptions.
Response	The reviewers agree and modified the text to read “...relationship of each NGE scale to one or more anticipated ....”
Comment	One commentator recommended changing section 3.4(c) from “the consistency of NGE scales with policy provisions, including rider provisions” to “policy and rider provisions.”
Response	The reviewers modified the definition of “policy” to clarify that riders are considered part of the policy and deleted “rider provisions” in this section.
Comment	One commentator recommended modifying the sentence in section 3.4 to say “The actuary should also take into account illustration requirements when determining illustrated NGE scales.”
Response	The reviewers believe this issue is covered in section 3.5 and ASOP No. 24, and removed the sentence.
<b>Section 3.4.1, Determination Process for New Product or for Sales of an Existing Product (now Determination Process for Future Sales of a New or Existing Product)</b>	
Comment	One commentator requested clarification on how this section interacts with ASOP No. 54.
Response	The reviewers believe the guidance is sufficient and made no change.
Comment	One commentator suggested the closing statement of section 3.4.1 about documentation should be revised to be less prescriptive or to allow for application of the actuary’s professional judgment.
Response	The reviewers deleted the last sentence of that paragraph in response to other comments.
Comment	One commentator recommended changing “product” to “policies” in the title of this section.
Response	The reviewers disagree and made no change.
Comment	One commentator suggested deleting “The actuary should document the expected profitability, including the pattern of profits by duration” because it is already included in (a)–(f) referenced in the previous sentence.
Response	The reviewers agree and deleted the sentence.

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Comment	One commentator expressed concern that using pattern of profit as the method for future determination for in-force policies is too prescriptive for some circumstances.
Response	The reviewers agree and deleted the term in sections 3.4.1 and 4.1, and modified the language in section 3.4.2.4.
Comment	One commentator suggested adding “policy and rider provisions” to the end of the sentence in section 3.4.1(d).
Response	The reviewers clarified the definition of policy to include riders.
Comment	One commentator suggested deleting reference to the “pattern of profit” in sections 3.4.1(f), 3.4.2.1, and 3.4.2.4(c) because it is required in only one state and creates unnecessary challenges for the actuary.
Response	The reviewers modified the language in section 3.4.1(f) (now [g]) to clarify the intent. “Pattern of profits” is now cited as an example of a method that can be consistent with sections 3.4.2.4 (a)–(c). The reviewers believe that reference to “pattern of profits” in section 3.4.2.1 is appropriate as an example.
Comment	One commentator suggested merging sections 3.4.1 and 3.4.2 and said, “Specifically, we do not think it is valuable to have one section for new products and another for in-force products. Instead, it seems like it would be more valuable to describe what to do when there is relevant experience for the determination exercise vs. when there is not (e.g., when designing a completely new type of benefit).”
Response	The reviewers believe that it is appropriate to have separate sections for future sales and in-force policies and that the guidance is appropriate, and made no change in response to this comment.
<b>Section 3.4.2, Determination Process for In-Force Products (now Determination Process for In-Force Policies)</b>	
Comment	One commentator suggested changing “consist of” to “may consider.”
Response	The reviewers believe the language is appropriate and made no change.
Comment	One commentator asked for additional guidance on the extent to which any in-force changes to NGE scales should be based on the experience of products that were relied upon when setting the original assumptions.
Response	The reviewers believe the guidance in this section and in section 3.3 is sufficient and made no change.
<b>Section 3.4.2.1, Reviewing Prior Determinations</b>	
Comment	One commentator suggested that it may not be appropriate to reconstruct the prior determinations when it is unknown whether the original assumptions were reasonable.
Response	The reviewers believe the guidance is appropriate and made no change in response to this comment.
Comment	One commentator suggested changing “should” to “may consider.”
Response	The reviewers disagree but clarified the language.
<b>Section 3.4.2.2, Analyzing Experience</b>	
Comment	One commentator suggested the section recognize the development of anticipated experience factors.
Response	The reviewers believe that the guidance is sufficient and therefore made no change.

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Comment	One commentator suggested revising the section to clarify that when analyzing experience for in-force policies, the actuary may rely on recent experience studies if they are appropriate.
Response	The reviewers added clarifying language.
Comment	One commentator suggested adding a set of conditions and circumstances as follows: “g. how experience may have been impacted by the insurer’s marketing, financial, or other strategic objectives.”
Response	The reviewers believe the guidance is sufficient and made no change.
<b>Section 3.4.2.3, Considering Whether to Recommend a Revision to NGE Scales</b>	
Comment	One commentator suggested that sections 3.4.2.3(c) and 3.4.2.3(f) seem to conflict with section 3.4.2.4(a).
Response	The reviewers modified sections 3.4.2.3 and 3.4.2.4 to address the concern.
Comment	One commentator suggested revising the opening statement to allow for professional judgment by changing “should take into account the following” to “may consider items such as.”
Response	The reviewers modified the language to say, “should take into account the following, if applicable.”
<b>Section 3.4.2.3(d)</b>	
Comment	One commentator stated the language was unclear based on the definition of anticipated experience factors.
Response	The reviewers believe the language is clear and made no change in response to this comment.
<b>Section 3.4.2.3(e)</b>	
Comment	One commentator said the examples in sections 3.4.2.3(e) and 3.4.2.3(g) could be interpreted to be restrictive.
Response	The reviewers modified the language.
<b>Section 3.4.2.3(f)</b>	
Comment	One commentator was concerned about situations in which the original NGEs are not available.
Response	The reviewers believe this situation is covered by the guidance in section 3.4.2.1.
<b>Section 3.4.2.3(g)</b>	
Comment	Several commentators were concerned that the example could be misinterpreted to be a restriction rather than an example of limited review.
Response	The reviewers clarified section 3.4.2.3(g) and the example.
Comment	One commentator said interest rate changes to NGE scales solely due to changes in market rates should be called out in a different context.
Response	The reviewers believe this is addressed in section 3.4.2.3(g).
<b>Section 3.4.2.3(h)</b>	
Comment	One commentator thought the language was ambiguous.
Response	The reviewers disagree and made no change.

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<b>Section 3.4.2.3(j)</b>	
Comment	One commentator suggested that it may not be appropriate for the actuary to consider policyholder impact when making a recommendation.
Response	The reviewers disagree and made no change.
<b>Section 3.4.2.4, Determining the Revised NGE Scales</b>	
<b>Section 3.4.2.4(a)</b>	
Comment	One commentator suggested adding policy classes to the items needing to be identified when determining revised NGE scales.
Response	The reviewers believe this is covered in section 3.3 and made no change.
<b>Section 3.4.2.4(b)</b>	
Comment	One commentator suggested that the revision of NGE scales should be based on the policy classes, as well as changes in anticipated experience factors.
Response	The reviewers believe this is covered in section 3.3 and made no change.
<b>Section 3.4.2.4(c)</b>	
Comment	Many commentators suggested that section 3.4.2.4(c) was too limiting.
Response	The reviewers made modifications in sections 3.4.1(f) and 3.4.2.4 to allow additional flexibility.
Comment	One commentator suggested clarifying that section 3.4.2.4 applies only if NGEs are otherwise being revised, and not when the insurer is simply reviewing and not revising NGEs.
Response	The reviewers note that section 3.4.2.4 begins with, “When determining revised NGE scales,…”
Comment	One commentator suggested the draft does not provide guidance in situations in which details of prior determinations are unavailable.
Response	The reviewers believe this situation is addressed in section 3.4.2.1.
Comment	One commentator suggested that section 3.4.2.4(c) as drafted would not allow for the use of smoothing and interpolation noted in section 3.4.
Response	The reviewers agree and added a sentence after section 3.4.2.4(c) to say “The actuary may use approximation and smoothing methods that are reasonable in relation to the costs and benefits provided.”
<b>Section 3.5, NGEs Used in Illustrations</b>	
Comment	One commentator suggested that the new language was too prescriptive and suggested some modifications.
Response	The reviewers agree and restored language from the current ASOP with updated language for terminology.
Comment	One commentator suggested that this section be removed because illustration guidance is covered in ASOP No. 24 and other regulations.
Response	The reviewers note that the scope applies to actuaries when performing actuarial services with respect to annuities and variable life insurance illustrations but does not apply to actuaries when performing actuarial services with respect to illustrations of NGEs subject to ASOP No. 24 and made no change in response to this comment.

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<b>SECTION 4. COMMUNICATIONS AND DISCLOSURES</b>	
<b>4.1, Required Disclosures in an Actuarial Report</b>	
Comment	One commentator suggested deleting “required” from the title to allow for professional judgment.
Response	The reviewers disagree and made no change.
Comment	One commentator suggested adding that the actuary should issue an actuarial report.
Response	The reviewers agree and made the change.
<b>APPENDIX</b>	
<b>Appendix 1, Background and Current Practices</b>	
Comment	One commentator suggested including litigation as a reason for renewed interest in NGE redetermination in Appendix 1.
Response	The reviewers modified the language to acknowledge increased public awareness of changes to NGEs for in-force policies.