

Mostly Tricks Proposed for ASOP 2

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Actuaries and Insurers Take Note

The Actuarial Standards Board (ASB) has exposed for comment significant proposed changes to Actuarial Standard of Practice No. 2, “Nonguaranteed Charges or Benefits for Life Insurance Policies and Annuity Contracts” (ASOP 2). The practices insurers use to determine and manage nonguaranteed elements (NGEs) within individual life insurance and annuity products have been the focus of increased attention since ASOP 2 was last updated in 2004. The ASB therefore is updating the ASOP to “reflect current practices and provide additional guidance on the determination of NGEs.”

Although ASOP 2 applies only to actuaries, insurers should be alert to its indirect impact on their NGE processes and pricing. Indeed, among other things, the exposed changes mandate expanded and more prescriptive technical requirements for actuaries’ NGE determinations, provide specific guidance concerning opinions and disclosures, and require a broader array of disclosures in actuarial reports. See “Proposed Revisions to ASOP 2 May Impact Your Product Pricing and Litigation Exposure,” *Expect Focus — Life, Annuity, and Retirement Solutions*, Vol. II (June 2019).

The comment period for the proposed changes to ASOP 2 ended on July 15, 2019. The ASB published 16 comments, which came from insurers, individuals, and industry groups (such as the American Academy of Actuaries and the Insured Retirement Institute). While several comments supported revisions to ASOP 2 in light of the current environment surrounding NGEs, many of the comments focused on what they perceived to be:

- Overly prescriptive requirements that traversed into the realm of regulators, were too restrictive on an actuary’s discretion, and potentially were at odds with contract language.
- Internal inconsistencies in the proposed changes.
- Potentially ambiguous language and definitions that could lead to overly conservative pricing, which would ultimately harm consumers.
- A general disconnect from the manner in which products are priced.

A common theme among the comments is criticism of, and suggested changes to, sections 3.2 – “Issues and Considerations When Providing Advice on the Actuarial Aspects of the Determination Policy” – and 3.4.2 – “Determination Process for In-Force Products.”

The ASB will now review the comments, provide public responses, and determine whether changes should be made to the exposed draft. Given the scope and breadth of the comments, actuaries and insurers should expect that another exposure draft will be required, which would include another comment period. The ASOP 2 task force will then review any comments on the new exposure draft, determine whether additional exposure is required, and, if not, pass the proposed changes to the Life Committee for review, and finally on to the ASB. Based on these requirements, it seems unlikely that the industry will be faced with a new ASOP 2 until the second half of 2020 or the first quarter of 2021, at the earliest. Nevertheless, given the significant implications of the proposed changes, we continue to recommend that actuaries and insurers pay attention now, especially for new products under development and any redeterminations for in-force products that are underway or being considered.

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