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Regulation XXX—A Status Report

by Kevin P. Larsen

Four score and seven months ago, or thereabouts, the beginnings of the Valuation of Life Insurance Policies Model Regulation (then known as *Guideline XXX*) were being formed. After a great deal of debate on its merits, needs, intent, and effect, the National Association of Insurance Commissioners adopted the model regulation in 1995.

However, since that time, the progress of getting the regulation adopted by the states has gone through many swings in momentum. At times, it has appeared to be heading for imminent adoption. At others, it has appeared to be dead. But throughout, the debate has continued, and the uncertainty about its adoption nationwide has helped fuel a very active term-insurance market.

This article is not intended to add to that debate. Rather, it provides the reader with the most up-to-date status of the adoption of *Regulation XXX*. Each state insurance department was contacted between November 5–19, 1997 with subsequent follow-up discussions through March 1998. The information in this article reflects both where a state currently stands on the measure and its anticipated activity on the regulation in 1998.

What You May Already Know

The only state where *XXX* is currently in effect is New York, which has had Regulation 147 in place since 1994. Seven other states (see Table 1 on pages 13 and 14 for current status in each state) have adopted *XXX* with a delayed implementation, known as the "Illinois Rule," or the "51% Rule." This rule states that the regulation will take effect on the January 1 of the year following the date when 51% of the U.S. population is in states that have adopted *XXX*.

West Virginia has adopted *XXX* to be effective January 1, 1998. However, it now wishes to delay the implementation to the 51% rule. That will require legislation to give the commissioner the authority to modify the effective date, and the state is still seeking a sponsor for that legislation.

Wisconsin has adopted the regulation, and it will take effect January 1, 1999.

What You May Not Have Heard

There has been some activity recently in several states. On November 3, 1997, Kansas adopted *XXX* with the 51% rule.

Most notably, Texas is proposing adoption of the regulation with an effective date of December 31, 1998, to apply on all business written after that date. The measure has been introduced into the register. A hearing has been scheduled for April 22, 1998, after which a final ruling will be made.

Extra-Territoriality

A common question that has been raised is whether *XXX* applies extra-territorially. According to most regulators I have questioned, the Standard Valuation Law requires that a company licensed in a state must hold reserves required by that state on all its business, not just for business written on residents of that state.

To date, for many companies, New York's Regulation 147 has affected only their New York business. This is because they have a separate New York affiliate. If *XXX* becomes effective in large states where these companies write business (and do not have separate affiliates), they in fact will have to comply with *XXX* nationwide.

How the Race Is Shaping Up

Counting the current states that have adopted *XXX* (regardless of effective date), 21.9% of the U.S. population is covered. Adding Texas and two other states planning to introduce the measure (Minnesota and New Jersey) brings the total to 33.6%. Another five states (5.8%) are studying *XXX* or have a fair possibility of introducing it in 1998. And 11 states (16%) have said they will review their position on *XXX* if 51% is achieved by other states.

Seven states equaling 23.7% are unlikely to adopt *XXX*. Two of these, California and Connecticut, accept *XXX* reserving, but also accept other methods, therefore, they do not count toward the 51%. However, California might reconsider adopting *XXX*. It is not a current priority, but it has not been ruled out.

1998—An Important Year

Yes, we have thought this before, but 1998 looks like it will be the critical year for deciding the fate of *XXX*. With the right circumstances, it is possible to reach 51%. And some groups are proposing modifications that would make *XXX* more likely to pass in some states.

While we won't be electing the next U.S. president, the coming year does provide an interesting race to watch. Stay tuned …

Kevin P. Larsen, ASA, is Associate Director, Market Analysis & Consulting Services, at Security Life Reinsurance, Denver, Colorado.

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TABLE 1

State	Status of *XXX*	Effective Date	% of U.S. Population	Comments
Alabama	Unlikely to adopt		1.62%	
Alaska	No planned activity		0.22	
Arizona	No planned activity		1.47	
Arkansas	May review if 51% achieved		0.95	
California	Accepts *XXX*, but does not count for 51% rule		11.97	Ruling 96–9 allows alternatives. Has not ruled out revisiting *XXX*
Colorado	No planned activity		1.32	Would take at least 60 days
Connecticut	Accepts *XXX*, but does not count for 51% rule		1.32	Similar allowances as California
District of Columbia	No planned activity		0.24	
Delaware	No planned activity		0.27	
Florida	Unlikely to adopt		5.20	Would require repeal of current regulation. Currently requires segmented approach during first level premium period
Georgia	No planned activity		2.60	
Hawaii	Currently studying		0.45	
Idaho	No planned activity		0.40	
Illinois	Adopted	51% rule	4.60	
Indiana	No planned activity		2.23	
Iowa	May review if 51% achieved		1.12	Will consider if neighboring states adopt it
Kansas	Adopted	51% rule	1.00	Recently adopted: 11/3/97
Kentucky	No planned activity		1.48	
Louisiana	May review if 51% achieved		1.70	
Maine	Adopted	51% rule	0.49	
Maryland	Adopted	51% rule	1.92	
Massachusetts	May introduce in 1998		2.42	
Michigan	No planned activity		3.74	
Minnesota	Introducing in 1998		1.76	
Mississippi	No planned activity		1.03	
Missouri	May review if 51% achieved		2.06	
Montana	May review if 51% achieved		0.32	
Nebraska	No planned activity		0.63	
Nevada	Currently studying		0.48	On agenda to decide in 1998
New Hampshire	Currently studying		0.45	
New Jersey	Introducing in 1998		3.11	
New Mexico	Adopted	51% rule	0.61	
New York	Adopted	1/1/94	7.23	
North Carolina	Adopted	51% rule	2.67	
North Dakota	No planned activity		0.26	
Ohio	May review if 51% achieved		4.36	
Oklahoma	Unlikely to adopt		1.26	
Oregon	May review if 51% achieved		1.14	
Pennsylvania	No planned activity		4.78	
Rhode Island	Unlikely to adopt		0.40	

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TABLE 1

State	Status of *XXX*	Effective Date	% of U.S. Population	Comments
South Carolina	May review if 51% achieved		1.40	
South Dakota	No planned activity		0.28	
Tennessee	Unlikely to adopt		1.96	
Texas	Introducing in 1998	12/31/98	6.83	Currently has 3–309(b). Would allow gross premium valuation during transition
Utah	Adopted	51% rule	0.69	
Vermont	May review if 51% achieved		0.23	
Virginia	May review if 51% achieved		2.49	
Washington	May introduce in 1998		1.96	
West Virginia	Adopted	51% rule	0.72	Actually effective 1/1/98 but planning to modify to 51% rule
Wisconsin	Adopted	1/99	1.97	
Wyoming	May review if 51% achieved		0.18	
Currently adopted (10—New York, Illinois, Kansas, Maine, Maryland, New Mexico, North Carolina, Utah, Wisconsin, West Virginia)			21.9	Currently adopted
Likely to be enacted by 1/1/99 (3—Texas, Minnesota, New Jersey)			11.7	Inclined positively
Might introduce regulation in 1998 (2—Massachusetts, Washington)			4.4	
Accept other methods (2—California, Connecticut)			13.3	Inclined negatively
Unlikely to adopt (5—Alabama, Florida, Oklahoma, Rhode Island, Tennessee)			10.4	
May review if 51% achieved by others (11)			16.0	Neutral
Currently studying or have no activity (18)			22.3	

Call for Papers: "Risks in Investment Accumulation Products of Financial Institutions"

The creation and issuing of new forms of contract structure by financial institutions, containing various guarantees relating to the investment performance of some blocks of assets, raise many new challenges for management. The design of these new structures, which include "variable" and "indexed" products, was intended to insulate financial institutions from most market risks. However, embedded guarantees and product features may engender some form of residual risk. The guarantees provided are linked to interest rate returns and/or equity returns. The techniques for managing interest- sensitive liabilities require expansion to provide the basis for stronger management of these new complex products.

In light of the dramatic need to more thoroughly understand the risks in investment accumulation products, the Actuarial Foundation and Nationwide Financial Services are jointly sponsoring a call for papers. Submissions will be reviewed by a panel chaired by Irwin T. Vanderhoof, The Stern School of Business, New York University. The Actuarial Foundation intends to present the accepted papers at a public symposium and to publish a symposium proceedings.

The deadline for submission of papers is September 1, 1998. The detailed call for papers can be downloaded from the Research section of The Foundation's web site at (www.soa.org/foundation), or contact Joyce Lewis at the Actuarial Foundation for more information, phone 847–706–3535, fax 847–706–3599, e-mail, jlewis@soa.org.