CHAPTER 45-04-05
UNIVERSAL LIFE INSURANCE

45-04-05-01. Definitions.

As used in this chapter:

1. "Cash surrender value" means the net cash surrender value plus any amounts outstanding as policy loans.
2. "Fixed premium universal life insurance policy" means a universal life insurance policy other than a flexible premium universal life insurance policy.
3. "Flexible premium universal life insurance policy" means a universal life insurance policy which permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.
4. "Interest-indexed universal life insurance policy" means any universal life insurance policy where the interest credits are linked to an external referent.
5. "Net cash surrender value" means the maximum amount payable to the policyowner upon surrender.
6. "Policy value" means the amount to which separately identified interest credits and mortality, expense, or other charges are made under a universal life insurance policy.
7. "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-02. Scope.

1. This chapter encompasses all individual universal life insurance policies except those policies defined under subsection 14 of section 45-04-04-01.
2. All companies shall be in full compliance with this rule on or before one year from January 1, 1985.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-03. Valuation.

1. **Requirements.**

a. The minimum valuation standard for universal life insurance policies shall be the commissioners reserve valuation method, as described below for such policies, and the tables and interest rates specified below. The terminal reserve for the basic policy and any benefits or riders, or both, for which premiums are not paid separately as of any policy anniversary must be equal to the net level premium reserves less (C) and less (D), where:

Reserves by the net level premium method must be equal to ((A) - (B))r where (A), (B) and r are as defined below:

(A) is the present value of all future guaranteed benefits at the date of valuation.

(B) is the quantity $((PVFB)/a_x)a_{x+t}$, where PVFB is the present value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.

ax and a_{x+t} are present values of an annuity of one per year payable on policy anniversaries beginning at ages x and x+t, respectively, and continuing until the highest attained age at which a premium may be paid under the policy. (x) is defined as the issue age and (t) is defined as the issue age and (t) is defined as the duration of the policy.

The guaranteed maturity premium for flexible premium universal life insurance policies must be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy on the latest maturity date, if any, permitted under the policy (otherwise at the highest age in the valuation mortality table), for an amount which is in accordance with the policy structure. The guaranteed maturity premium is calculated at issue based on all policy guarantees at issue (excluding guarantees linked to an external referent). The guaranteed maturity premium for fixed premium universal life insurance policies must be the premium defined in the policy which at issue provides the minimum policy guarantees.

r is equal to one, unless the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, in which case r is the ratio of the policy value to the guaranteed maturity fund.

The guaranteed maturity fund at any duration is that amount which, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(C) is the quantity $((a)-(b))((a_{x+t})(r)/a_x$ where (a)-(b) is as described in [Section Four of the NAIC Standard Valuation Law, as amended in 1980] for the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer.

a_{x+t} and a_x are defined in (B) above.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The guaranteed maturity premium, the guaranteed maturity fund and (B) above must be recalculated to reflect any structural changes in the policy. This recalculation must be done in a manner consistent with the descriptions above. Future guaranteed benefits are determined by (a) projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (b) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

All present values shall be determined using (a) an interest rate (or rates) specified by [the NAIC Standard Valuation Law, as amended in 1980] for policies issued in the same year; (b) the mortality rates specified by [the NAIC Standard Valuation Law, as amended in 1980] for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose; and (c) any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

2. **Alternative minimum reserves.**

   a. If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of (1) or (2).

      (1) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

      (2) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.

   For universal life insurance reserves on a net level premium basis, the valuation net premium is $(PVFB)/a_x$ and for reserves on a commissioners reserve valuation method, the valuation net premium is $(PVFB)/a_x + ((a)-(b))/a_x$.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-04. Nonforfeiture.

1. **Minimum cash surrender values for flexible premium universal life insurance policies.**

   a. Minimum cash surrender values for flexible premium universal life insurance policies must be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

   The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulations to that date of the premiums paid minus the accumulations to that date of (1) the benefit charges, (2) the averaged administrative expense charges for the first policy year and any insurance-increase years, (3) actual administrative expense charges for other years, (4) initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively, (5) any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit) and (6) any deductions made for partial withdrawals; all accumulations being at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

Interest on the premiums and on all charges referred to in items (1) through (6) above must be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the policy value.

The benefit charges must include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the commissioner may require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.

The administrative expense charges must include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year must be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the policy value.

The initial acquisition expense charges must be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges must be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year must be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

The initial expense allowance must be the allowance provided by subdivisions b, c, and d of subsection 1 of North Dakota Century Code section 26.1-33-21 or by subdivisions b and c of subsection 1 of North Dakota Century Code section 26.1-33-24 as applicable for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance must be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined above.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance must be determined on a basis consistent with the above and with subsection 5 of North Dakota Century Code section 26.1-33-24 using the face amount and the latest maturity date permitted at that time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age x+t (where x is the issue age) must be the unused initial expense allowance multiplied by $(a_{x+t})/a_x$ where a_{x+t} and a_x are present values of an annuity of one per year payable on policy anniversaries beginning at ages x+t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance must be the unused additional expense allowance multiplied by a similar ratio of annuities, with a_x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

2. **Minimum cash surrender values for fixed premium universal life insurance policies.**

   a. For fixed premium universal life insurance policies, the minimum cash surrender values must be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

   The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy must be equal to ((A)-(B)-(C)-(D)), where:

   (A) is the present value of all future guaranteed benefits.

   (B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in North Dakota Century Code sections 26.1-33-22 and 26.1-33-23 or in subsection 1 of North Dakota Century Code section 26.1-33-24 as applicable. If subsection 1 of North Dakota Century Code section 26.1-33-24 is applicable, the nonforfeiture net level premium is equal to the quantity $(PVFB)/a_x$ where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

   a_x is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

   (C) is the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. a_x shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

   (D) is the sum of any quantities analogous to (B) which arise because of structural changes in the policy.

   Future guaranteed benefits are determined by (1) projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (2) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

   All present values shall be determined using (1) an interest rate (or rates) specified by North Dakota Century Code chapter 26.1-33 for policies issued in the same year and (2) the mortality rates specified by North Dakota Century Code chapter 26.1-33 for policies issued in the same year or contained in such other table as may be approved by the commissioner for this purpose.

3. **Minimum paid-up nonforfeiture benefits.** If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it must be such that its present value must be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value must be based on mortality and interest standards at least as favorable to the policyowner as (1) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value, or (2) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by North Dakota Century Code chapter 26.1-33. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-05. Mandatory policy provisions.

The policy shall provide the following:

1. **Periodic disclosure to policyowner.** The policy must provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report. Specific requirements of this report are detailed in section 45-04-05-06.

2. **Illustrative reports.** The policy must provide for an illustrative report which will be sent to the policyowner upon request. Minimum requirements of such report are the same as those set forth in section 45-04-05-05. The insurer may charge the policyowner a reasonable fee for providing the report.

3. **Policy guarantees.** The policy must provide guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy must be based on guarantees. No figures based on nonguarantees may be included in the policy.

4. **Calculation of cash surrender values.** The policy must contain at least a general description of the calculation of cash surrender values including the following information:

   a. The guaranteed maximum expense charges and loads.

   b. Any limitation on the crediting of additional interest. Interest credits may not remain conditional for a period longer than twelve months.

   c. The guaranteed minimum rate or rates of interest.

   d. The guaranteed maximum mortality charges.

   e. Any other guaranteed charges.

   f. Any surrender or partial withdrawal charges.

5. **Changes in basic coverage.** If the policyowner has the right to change the basic coverage, any limitation on the amount or timing of such change must be stated in the policy. If the

policyowner has the right to increase the basic coverage, the policy must state whether a new period of contestability, or suicide, or both, is applicable to the additional coverage.

6. **Grace period and lapse.** The policy must provide for written notice to be sent to the policyowner's last known address at least thirty days prior to termination of coverage. A flexible premium policy must provide for a grace period of at least thirty days (or as required by North Dakota law) after lapse. Unless otherwise defined in the policy, lapse occurs on that date on which the net cash surrender value first equals zero.

7. **Misstatement of age or sex.** If there is a misstatement of age or sex in the policy, the amount of the death benefit must be that which would be purchased by the most recent mortality charge at the correct age or sex. The commissioner may approve other methods which are deemed satisfactory.

8. **Maturity date.** If a policy provides for a "maturity date," "end date," or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-06. Disclosure requirements.

In connection with any advertising, solicitation, negotiation, or procurement of a universal life insurance policy:

1. Any statement of policy cost factors or benefits must contain:

   a. The corresponding guaranteed policy cost factors or benefits, clearly identified.

   b. A statement explaining the nonguaranteed nature of any current interest rates, charges, or other fees applied to the policy, including the insurer's rights to alter any of these factors.

   c. Any limitations on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.

   (Note: Policy cost factors are those amounts which affect the price per thousand of life insurance coverage or other benefits. They include: interest, mortality, expense charges and fees, including any surrender or withdrawal charges, but not persistency assumptions.)

2. Any illustration of the policy value must be accompanied by the corresponding net cash surrender value.

3. Any statement regarding the crediting of a specific current interest rate must also contain the frequency and timing by which such rate is determined.

4. If any statement refers to the policy being interest-indexed, the index must be described. In addition, a description must be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.

5. Any illustrated benefits based upon nonguaranteed interest, mortality, or expense factors must be accompanied by a statement indicating that these benefits are not guaranteed.

6. If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted prior to the policy's maturity date, such fact must be disclosed, including notice that coverage will terminate under such circumstances.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-07. Periodic disclosure to policyowner requirements.

The policy must provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised of the status of the policy. The end of the current report period may be not more than three months previous to the date of the mailing of the report.

The report must include the following:

1. The beginning and end of the current report period.

2. The policy value at the end of the previous report period and at the end of the current report period.

3. The total amounts which have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders).

4. The current death benefit at the end of the current report period on each life covered by the policy.

5. The net cash surrender value of the policy as of the end of the current report period.

6. The amount of outstanding loans, if any, as of the end of the current report period.

7. For fixed premium policies: If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect must be included in the report.

8. For flexible premium policies: If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect must be included in the report.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-08. Interest-indexed universal life insurance policies.

1. **Initial filing requirements.** The following information must be submitted in connection with any filing of interest-indexed universal life insurance policies ("interest-indexed policies"). All such information received must be treated confidentially to the extent permitted by law.

    a. A description of how the interest credits are determined, including:

        (1) A description of the index.

        (2) The relationship between the value of the index and the actual interest rate to be credited.

(3) The frequency and timing of determining the interest rate.

(4) The allocation of interest credits, if more than one rate of interest applies to different portions of the policy value.

b. The insurer's investment policy, which includes a description of the following:

(1) How the insurer addressed the reinvestment risks.

(2) How the insurer plans to address the risk of capital loss on cash outflows.

(3) How the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities.

(4) How the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy.

(5) The amount and type of assets currently held for interest-indexed policies.

(6) The amount and type of assets expected to be acquired in the future.

c. If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.

d. A description of any interest guarantee in addition to or in lieu of the index.

e. A description of any maximum premium limitations and the conditions under which they apply.

2. **Additional filing requirements.**

a. Annually, ever insurer shall submit a statement of actuarial opinion by the insurer's actuary similar to the example contained in subsection 3.

b. Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.

c. Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (i.e., any change in the information supplied in subdivision a above) or if it would significantly change the amount or type of assets held for interest-indexed policies.

3. **Statement of actuarial opinion for interest-indexed universal life insurance policies.**

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I, ___________________, am ______________________________________
         (name)           (position or relationship to Insurer)
for the XYZ Life Insurance Company (The Insurer)
in the state of ______________________________________.
                        (State of Domicile of Insurer)
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I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial opinions).

I have examined the interest-indexed universal life insurance policies of the insurer in force as of December 31, 19____, encompassing ____ number of policies and $ ____ of insurance in force.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the insurer as they affect future insurance and investment cash flows under such policies and related assets. My examination included such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the insurer and on projected investment cash flows as provided by _____________________, Chief Investment Officer of the insurer.

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates.

In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the insurer under these insurance policies.

____
Signature of Actuary

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33

45-04-05-09. Separability.

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances is not affected thereby.

History: Effective January 1, 1985.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-30, 26.1-33