

No Time for Hibernating This Winter: New Charges and Recommendations

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After long growing seasons, several items being reviewed by groups within the NAIC resulted in new charges and recommendations being harvested in time for the NAIC 2013 Winter Meeting. In addition, the Life Actuarial Task Force (LATF) began sowing the seeds for work to be done next year and established two new subgroups. Since 2009, the Separate Account Risk Working Group (the SARWG) has been examining the use of separate accounts to fund products with general account guarantees. The SARWG issued on October 24, 2013, its "Potential Actions/Recommendations" (SARWG's Recommendations). During a November 1 call, SARWG received comments on the first four of the five items in SARWG's Recommendations. On November 21, the SARWG exposed the first three proposals for a comment period ending December 13, with the intent of finalizing them for submission to the Financial Condition (E) Committee. The three proposals are included:

- Adoption of five principles that would apply before assets in a separate account may be insulated for non-variable products.
- Revision of the Modified Guaranteed Annuity Model Regulation (Model #255) and Statement of Statutory Accounting Principles Number 56 – Separate Accounts to clarify that assets transferred from the general account to the separate account would be non-insulated assets and that those assets would be given the same priority as general account assets in the event of an insolvency.
- Review of the Separate Accounts funding Guaranteed Minimum Benefits for Group Contracts Model Regulation (Model #200) to ensure the relevant products are appropriately addressed in the Model, and to consider for book value products whether asset diversification requirements should apply.

In addition, on November 21, the SARWG exposed the remaining two proposals for a comment

period ending January 10, 2014. The separate exposure was intended to allow time to for additional materials to be submitted to the regulators. The two proposals are:

- Consideration of how to incorporate guidance for bank-owned or corporate-owned life insurance products.
- Consideration of individual products within separate accounts and a recommendation that use of an insulated separate account be prohibited unless the separate account is unitized.

Whether individual products should be insulated will likely result in a bountiful array of colorful discussions. Since late 2010, the LATF, the Life Insurance and Annuities (A) Committee (the A Committee), and the Contingent Deferred Annuity Working Group (the CDA Working Group) have been mulling over contingent deferred annuities (CDAs). While initially the work focused on whether CDAs should be viewed as an annuity, the CDA Working Group has been evaluating the adequacy of existing laws and regulations and whether additional solvency and consumer protection standards are required. Based on the CDA Working Group's report and findings and recommendations, the A Committee developed and adopted on October 21, 2013, a menu of charges to consider whether changes to various NAIC model laws and regulations or adoption of additional guidance to address CDAs are necessary. Nine different groups that have the specific subject matter expertise within the NAIC are being invited to the feast. The list of charges is comprehensive. Several states have been conducting unclaimed property audits for several years and a group of regulators within the NAIC has been focusing on the unclaimed property issue since at least 2011. No group within the NAIC had been charged with formally reviewing this issue. During its December 4, 2013, call, the A Committee adopted the following charge:

The Life Insurance and Annuities (A) Committee should undertake a study to determine if recommendations should be made to address unclaimed death benefits. During its October 30, 2013, call, LATF established two new subgroups. The CDA Subgroup was formed to address the charges sent to LATF on CDAs. In addition, LATF created the Index Linked Subgroup to review index linked products that do not place a floor on the index-related crediting rate and that are funded by a separate account. The Index Linked Subgroup was tasked with providing recommendations to LATF regarding the applicability of the separate account regulatory framework and standard nonforfeiture law to these index linked products. The various NAIC working groups will be kept busy this winter with the cornucopia of items they need to address.

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