

Holiday "Gift" from the NAIC Separate Account Risk Working Group

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On December 21, 2012, the NAIC Separate Account Risk Working Group ("SARWG") issued its draft " *Review of Non-Variable, Insulated Products / Product Characteristics with Proposed Recommendations*," dated December 20, 2012 ("*Product Review and Recommendations*"). The purpose of the *Product Review and Recommendations* is to "review non-variable, insulated products and identify whether such products have characteristics that support insulation from general account claims, and, if so, identify those characteristics." On January 9, 2013, SARWG will resume its discussion on insulation classification for separate account funded products based upon its *Product Review and Recommendations*.

The *Product Review and Recommendations* categorized products into six categories and then describes the attributes of each group. It also discusses whether the products are covered by state guaranty funds and how guaranty fund assessments should be made on the products. Finally, it included SARWG's recommendation that **four** groups **should not be insulated**. These are:

- Group A – Market Value Adjusted Annuity and Modified Guaranteed Annuity
- Group B – Flexible Premium Deferred Annuity, Deferred Annuity, Fixed Annuity, Fixed Income, and Fixed Credited Interest Rate
- Group E – Single Premium Annuity, Experience Rated Contracts, and Non-Experience Rated Contracts
- Group F – Fixed Index Deferred Annuities and Equity Index Annuities

For all of these product groups, the *Product Review and Recommendations* described the products as non-variable, the contract holder does not elect specific investments, the payments to the holder do not reflect actual investment proceeds, and the products were not registered with the SEC.

For the remaining two product groups, the *Product Review and Recommendations* stated that SARWG is seeking further discussion, "along with input from industry and consumer reps." These groups are:

- Group C – BOLI/COLI
- Group D – Guaranteed Investment Contract, Guaranteed Interest, Funding Agreement, Group Annuity, Group Annuity Contract, Guaranteed Group Annuity (Pooled / Non-Pooled), and Group Annuity-Funding Agreement

With respect to Group C, the *Product Review and Recommendations* recognized that "bank[s] desire to receive a reduced capital charge if the product is considered insulated from general account claims." It also noted that an SVP contract is often part of the BOLI arrangement. SARWG is seeking additional information regarding SVP contract arrangements and their prevalence. The *Product Review and Recommendations*, acknowledged that:

the insulation classification for BOLI products may be a factor for the product market. Although the attributes for this product are similar to general account products, it was identified that eliminating insulation classification would be a change for the banks, and if this change occurs, the banks may look to other products / providers. The Working Group is aware that much of this business is insulated and prohibiting insulation could be disruptive to the market.

(Emphasis in original.)

With respect to Group D, the *Product Review and Recommendations* recognized that:

The insulation classification for Grouping D products may be a factor for the product market. Although the attributes for this product group are similar to those for general account products, it was identified that eliminating insulation classification would be a significant change for the large stable value marketplace. The Working Group is aware that much of this business is insulated and prohibiting insulation could be disruptive to the market.

(Emphasis in original.)

We will be participating in the January 9th call and will report on the meeting.

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