

Draft Product Review and Recommendations Exposed for Comment

FINANCIAL SERVICES REGULATORY | JANUARY 9, 2013



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On January 9, 2013, the NAIC Separate Account Risk Working Group ("SARWG") voted to expose for comment its draft "Review of Non-Variable, Insulated Products / Product Characteristics with Proposed Recommendations," dated December 20, 2012 ("Product Review and Recommendations"). As discussed in our December 21st Alert, the *Product Review and Recommendations* categorizes products into six categories, recommends that insulation should not be permitted for four groups of products, and seeks further information and discussion for two groups of products.

During the January 9th call, Rhode Island Superintendent of Insurance and Chair of the NAIC Financial Condition (E) Committee, Joseph Torti, invited comments on the *Product Review and Recommendations*, particularly taking into consideration the following:

- The market need for products with general account guarantees and funded by insulated separate accounts. To the extent the comments show a market need for certain types of products, then comments should further discuss what safeguards can be put in place to mitigate the risk to the general account and general account policyholders and to protect consumers who purchase these products.
- How insulated separate account funded products with general account guarantees are different from general account funded products. Superintendent Torti asserted that the regulators would not permit the same product to be funded in some instances by a general account and in other instances funded by an insulated separate account.
- The use of a separate account to fund a product with general account guarantees is not appropriate to avoid capital requirements or avoid consumer protection requirements, such as standard non-forfeiture requirements.

Superintendent Torti also warned against comments merely asserting that the industry would be disadvantaged by the proposed groupings and recommendations, or that the market needs such products, as they would not be helpful. SARWG stated that it specifically seeks comments on:

- The appropriateness of the product groupings;
- Other attributes of the products that should be considered in grouping products and in the analysis;
- The proposed recommendations (comments on the recommendations must be made with specificity in view of Superintendent Torti's statements); and
- Stable value products.

SARWG approved a 45-day comment period ending on February 25, 2013.