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To: Smith-Daley, Ana; roger.sevigny@ins.nh.gov; Dubsky, Sara; Arricale, Frances

Cc: Harker, Brad

Subject: Industry Advisory Committee Comments Re: Alaska Comments Regarding Deferred Annuity Standards

The concerns raised by Alaska and evidenced in the 2007 changes to their version of the NAIC Standard Nonforfeiture Law For Individual Deferred Annuities (the Model) are not new.

In the summer of 2004, the NAIC Annuity Team discussed the fact that a few states had regulatorily implemented a narrower interpretation of the prospective test of the Model, but that 40+ states were approving products that used the Model language as a guide for complying with the prospective test. Our mantra at the time was "the Model, the Model, the Model", but we wanted to be fair about addressing the concerns that the few states had. Accordingly, a decision was made to have the Interstate Compact National Standards Working Group (ICNSWG) ask the American Academy of Actuaries to review the prospective test contained in Section 6 of the NAIC Standard Nonforfeiture Law and provide an opinion as to the usefulness and viability of the test in today's deferred annuity marketplace. The Working Group made such a request in September 2004.

In June 2005, the Academy presented its report to the ICNSWG. In essence, the Academy found that "the prospective test is not accomplishing its original objectives in today's environment and should be eliminated from the uniform product standard compliance requirement for all deferred annuity products. However, if it were deemed necessary to continue the prospective test for regulatory reasons, it should only be applied to products with fixed maturity dates, fixed premium schedules and corresponding tabular cash values, as it was originally intended."

To continue the fairness approach, the ICNSWG next forwarded its report to the Life and Health Actuarial Task Force (LHATF) review the report. LHATF did meet to discuss the report but no decision was made to proceed to initiate a project to address the concerns contained in the AAA Report.

Subsequently, the ICNSWG voted to have the deferred annuity product standards reflect the language of the Model relating to the prospective test as it exists in the vast majority of states rather than the narrower interpretation reflected in the laws or regulations of only a minority of states.

The Alaska proposed changes are highly controversial and complex in nature. If the IIPRC standards were revised to reflect the narrower approach Alaska and a minority of other states have implemented, there are products used in today's marketplace that would become nonviable. Understandably, some companies may choose not to file their deferred annuity products with the IIPRC.

In addition, it should be noted that the position taken by Alaska and the other states who have regulatorily adopted the narrower interpretation of the prospective test language in the Model is contrary to NAIC Actuarial Guideline 3 (AG 3). These states require that the "Maturity Value" of the deferred annuity equal the policy fund value (unreduced by surrender charges) at the later of age 70 or 10 years from issue rather than the being consistent with AG 3 which interprets the Maturity Value as being the cash surrender value (which reflects the surrender charges) at that time. Although not a legal mandate and certainly overridden by any state law to the contrary, AG 3 is contained in the NAIC

Examiners Handbook and in the SSAP's and is therefore important guidance for state examiners as to the appropriate definition of the Maturity Value as it pertains to the prospective test in the Model. This guidance has been rendered inapplicable in those states like Alaska who have adopted the narrower interpretation of the prospective test.

We do not want Alaska to opt out of the deferred annuity product standards and we do not want companies not using the IIPRC for their filings.

We believe that the Alaska proposed changes should be referred back to the NAIC Annuity Team chaired by Brad Harker of Pennsylvania. The type of discussions that will be required are better suited for that Team - there is broader regulator participation, and the Team is better prepared to deal with the technical Model and product issues. ***It is imperative that more in-depth regulator and industry discussions take place to properly vet the issues before the standards move up the IIPRC adoption process.***

We will be requesting such referral at tomorrow's meeting and wanted to give you all a heads up to that effect.

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