

Actuarial Guideline XXXVIII (AXXX)

Indicative of how hot this topic has become, the call included regulators from 22 states (not all being LHATF members) and more than 40 interested entities, many with multiple listeners.

LHATF Chair Leslie Jones (SC) outlined the 5 options under consideration – (1) stochastic testing being developed by an AAA UL Work Group, (2) a proposed redraft of AXXX by NY, (3) a proposal to use an Attained Age Level Reserve (AALR) approach similar conceptually to that used for variable life insurance, (4) a proposed redraft of AXXX by CA and (5) taking no action and letting each state enforce the current AXXX as it sees fit. The main proponent of each of the first four proposals then presented his case.

The AAA UL Work Group has developed principles applicable to valuation of secondary guarantees, a project plan that has a goal of completion by 12/31/2005 and 8 subgroups to address various aspects of the work (e.g., mortality assumptions, modeling, etc.). They are looking for more volunteers to address tax issues, margins in assumptions and the form (i.e., law vs. regulation vs. guideline) of the ultimate guidance.

Bill Carmello outlined New York's most recent proposed draft of October 12. This draft retains all the steps of product design #8, but modifies the second and fourth steps. The modifications pertain to the determination at each valuation date of the minimum amounts necessary to fully fund the secondary guarantee under consideration. This proposal would be retroactive.

Carmello also said that he considers the AAA work to be a long-term solution that should not hinder an urgently needed short-term solution. He also rejected the AALR approach as not consistent with XXX. He views the argument that the current reserves produced by XXX are too conservative as something to be addressed in the long-term solution.

Randy Freitag, representing a group of 15 companies that had written a joint letter objecting to changing AXXX, stated the group's main objection is that this is becoming a never-ending process. This group instead proposes separate asset adequacy analysis on just the business subject to AG XXXVIII.

Ed Robbins presented the AALR approach. He agreed with Carmello that it is not a short-term solution, but urged the AAA Work Group to consider it in its deliberations.

Finally, Sheldon Summers discussed California's redraft of October 13. It adds a requirement to AXXX that the appointed actuary be prepared to demonstrate that any premium payment assumption used for secondary guarantee reserves produces



reserves similar to those required by the same premium pattern on a traditional plan. Summers would like to have his changes combined with NY's approach.

LHATF then debated future steps. NY moved to amend AXXX (not necessarily with its own proposal). AR and NE were reluctant to move without further study. Other states supported it to achieve uniformity and better enforcement. It passed 10-3.

A motion to expose NY's revision combined with CA's proposal passed 14-1. A motion to expose all three proposals (NY/CA, AALR and asset adequacy analysis) failed 9-5.

The discussion will continue on a conference call scheduled for November 19. The "general nonforfeiture" call previously scheduled for that date was cancelled. NY and CA were asked to coordinate a revised draft of AXXX that NAIC could make available on its website by the end of October.

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