

**Actuarial Guideline 38**

The NAIC (A) Committee is the parent of LHATF for all life insurance and annuity issues. The Committee consists of Commissioners from 13 states, all of which were represented on the call. Most states actually had the Commissioners on the call, although many of them had at least one actuary on hand.

The purpose of the call was to follow up on the AG 38 activities at the June NAIC meeting in Boston. There, LHATF had recommended a revision to AG 38 incorporating the “CEO compromise” (also known as the “7% solution”). However, (A) Committee refused to act on that recommendation without further discussion.

Mike Batte, Chair of LHATF, provided a short history of the project, outlining the major issues such as whether companies were applying AG 38 in the manner intended, if not, what the remedy should be and if any changes should be retroactive.

ACLI staff reported that its Board had endorsed the CEO compromise by a substantial majority, although its members had some concerns with potential lack of uniformity among the states and with not getting a principles-based approach in place by January 1, 2007.

Interested parties opined that any long-term solution should apply to policies issued under AG 38, that excessive reserves caused the problem in the first place and that revisions of valuation mortality tables are merely part of the solution.

Regulators did not seem to have a problem with the first opinion. One regulator rebutted the excessive reserves argument by observing that there are many policies that appear to be lapse-supported. If the necessary lapses do not occur, then reserves might actually be inadequate.

When (A) Committee then entertained a motion to accept the recommendation of LHATF, some states pushed for an amendment to change the effective date from July 1, 2005 to January 1, 2006. The amendment failed 10-3 and then the original motion passed 10-3. AG 38 now moves to the Plenary and Executive Committees of the NAIC.

Chairman Poolman (ND) announced that an open hearing on a principles-based approach to reserves will be held in Minneapolis on August 23. He also made a plea for uniformity of passage and enforcement if and when NAIC formally passes a revised AG 38.

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