



National Organization of Life and Health Insurance Guaranty Associations

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The Honorable Joseph Torti, III
Chairman – NAIC Financial Condition (E) Committee
Department of Business Regulation,
Insurance Division
1511 Pontiac Avenue, Bldg. 69--2
Cranston, RI 02920

Re Comments on LATF September 6, 2011 Draft Response on Separate Account Issues

Dear Superintendent Torti;

Thank you for the opportunity to comment on the Life Actuarial Task Force's Draft Response on Separate Account Issues. The National Organization of Life and Health Insurance Guaranty Associations, whose members are the nation's 52 state life and health insurance guaranty associations, submits the following comments for the E Committee's consideration.

1. Guaranty Association Assessments

- a. Report Reference - Under the topic of "Insulation" in Section III of the Response, the following paragraph appears:

"Uncertainty of what is insulated prior to receivership may lead to another issue of inconsistency in what is reported for state guaranty fund assessments. To the extent that insulation is unknown for such products then companies have to make assumptions as to what is covered by a guaranty fund in providing information for assessment purposes. There are two supplements currently completed by companies which state guaranty funds use to compute assessments".

- b. NOLHGA Comment: We agree that it is important to track product developments for the purposes of assessing what impact they might have on guaranty association coverage and assessments. However, in this case the insulation (or non-insulation) of separate account assets is not relevant for purposes of determining whether a product is eligible for guaranty association coverage. As a consequence, the issue of insulation also is not relevant for purposes of determining whether a product's premium is reportable for guaranty association assessment purposes. Therefore, it appears unnecessary to address the above-referenced issue.

2. Coverage of Variable Products

- a. Report Reference - Under the topic of "Guarantees" in Section III of the Response, the following paragraph appears:

“Another question to explore is whether contracts sold as variable, but containing guarantees, would be covered by the Guaranty Association. Does the answer depend on the type of guarantee (e.g. the guarantee of a return equal to an index like the Standard and Poor 500, a guaranteed maximum percentage decline in value of an index, or a buffer where the company absorbs the first x% of an index decline and the contract holder is on the risk after that)?”

- b. NOLHGA Response – NOLHGA has done extensive work with respect to the question of whether variable products with guarantees are eligible for coverage. At the 2010 Fall NAIC Meeting, NOLHGA made a presentation to the Receivership Separate Account Working Group (RSAWG) to report on the results of its work. The presentation reported that, subject to applicable limits and exclusions, such products would be eligible for coverage under the NAIC Life and Health Insurance Guaranty Association Model Act. While NOLHGA believes that this result would apply under the guaranty association laws of the various states, the question of whether a particular product is covered can only be decided by the relevant guaranty association based on the terms of the policy or contract and the application of the association’s enabling act in effect at the time it is activated to provide coverage.

In light of our prior report to RSAWG, we believe the above-referenced coverage question has already been addressed.

Thank you again for the opportunity to provide comments on this matter. If you should have any questions on this letter, please feel free to contact me at 703.787.4104.

Very truly yours,



William P. O’Sullivan
Senior Vice President & General Counsel