NAIC National Association of Insurance Commissioners
& The Center for Insurance Policy and Research

To: **Superintendent Joseph Torti III (RI), Chair of the Financial Condition (E) Committee**

From: **Jim Mumford (IA), Chair of Receivership and Insolvency (E) Task Force and Receivership Separate Accounts Working Group**

Date: **October 18, 2011**

RE: **Comments on Exposure of Life Actuarial (E) Task Force memorandum to Financial Condition (E) Committee**

The Receivership Insolvency (E) Task Force (RITF) currently has a charge to study receivership issues related to separate accounts. RITF had set up the Receivership Separate Accounts Working Group (RSAWG) to complete this charge. RITF noted that numerous topics included in the Life Actuarial (E) Task Force (LATF) memorandum to Financial Condition (E) Committee are receivership issues.

RITF would like to make the E Committee aware that RSAWG is currently reviewing the following issues outlined in LATF's memorandum and recommends that LATF take no action regarding research of receivership issues as these topics are currently being reviewed by RSAWG & RITF.

Preferred Class of Policyholders

The current framework possibly inappropriately allows for preferred classes to exist or be created within a separate account to the detriment of the general account. The regulatory structure allows a block of policies to be segregated in a SA (separate account) with substantial investment guarantees made to the corresponding policyholders. It also allows the option for the company to insulate these assets from the remaining GA (general account) liabilities while at the same time requiring assets to be maintained in the SA sufficient to fund these liabilities. The result is, in essence, a preferred class of policyholders who have their assets protected from GA liabilities while having first call on GA assets.

Insulation

Related to assessing the potential for a preferred class of policyholders is whether the assets in the separate account are insulated. General account assets that are needed to support the separate account and are transferred into the separate account could be considered insulated or rather a debt owed back to the general account and treated as other general account assets in a receivership situation.

If there is uncertainty of what is insulated prior to the time of receivership then another related issue is one of marketing and whether policyholders are led to believe that a non-unit linked product plus any general account assets used to support it are insulated.

Guarantees

Due to the preferred class of policyholders and insulation issues, a legitimate place for guarantees in any separate account is questionable and the guarantees having any advantage over general account protections is uncertain.

Contracts sold as variable, but containing guarantees, may be covered by the Guaranty Association depending 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).

Thank you again for allowing us to provide you an update on our progress with regard to the receivership related topics concerning separate accounts. If you have any questions feel free to contact NAIC Staff member David Vacca (816-783-8134) or myself.