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January 31, 2018

Mr. Mike Yanacheak
Chair, Annuity Disclosure (A) Working Group
National Association of Insurance Commissioners (NAIC)
Via Email: Jennifer Cook (JCook@naic.org)

Re: Proposed changes to the Annuity Disclosure Model Regulation (#245)

Dear Mr. Yanacheak,

On behalf of the Annuity Illustration Work Group of the American Academy of Actuaries,[1] thank you for the opportunity to comment on the proposed changes to the Annuity Disclosure Model Regulation ("the model").

Proposed changes for participating immediate and deferred income annuities ("NYL/NWM proposal")

In our work group's discussions of the NYL/NWM proposal, we reviewed sections of the model as well as sections of Actuarial Standard of Practice No. 15: Dividends for Individual Participating Life Insurance, Annuities, and Disability Insurance ("ASOP 15"). Pertinent excerpts of the model and standard are copied below:

> **Model**
> Section 6(8): "The non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements."
>
> Section 4(J): "'Non-guaranteed elements' means the premiums, credited interest rates (including any bonus), benefits, values**, dividends**, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation." (emphasis added)

[1] The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

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ASOP 15
3.13 Illustrated Dividends Not Subject to ASOP No. 24

> "The actuary should determine dividends to be used in illustrations not subject to ASOP No. 24 so that they reasonably relate to actual dividends recently determined for payment on policies in force.
>
> The actuary should consider whether illustrated dividends can be supported by recent experience. If not, the actuary should disclose this and consider the appropriateness of recommending a reduced scale for illustrations."

The model states that illustrated non-guaranteed elements should neither improve over time nor be based on improvements of underlying assumptions. This principle has applied to all non-guaranteed elements since annuity illustration standards were developed in 2011, and is consistent with the requirements for non-guaranteed elements in the Life Insurance Illustrations Model Regulation since its development in 1995. The Proceedings of the NAIC for the Life Insurance Illustrations Model Regulation state: "Eleven proposals were submitted for working group consideration. All but one called for a ban on the projection of improvements in interest, mortality, and expenses." (1994 Proc. 3rd Quarter 533.) We question whether it is appropriate to deviate from this principle, and if so, whether it is appropriate to do so for only one type of non-guaranteed element/product type and not others (e.g., dividends on participating products vs. credited rates on non-participating products).

We also note that there is existing guidance in ASOP 15, which states: "The actuary should determine dividends to be used in illustrations not subject to ASOP No. 24 so that they reasonably relate to actual dividends recently determined for payment on policies in force." The Annuity Disclosure (A) Working Group may wish to consider this guidance while contemplating a change to the model.

Ultimately, we believe that a change to the model to allow the illustration of any future improvements should be carefully considered. If, after careful consideration, the Annuity Disclosure (A) Working Group determines that such a change is appropriate, then we recommend the change be applied in a manner that is consistent across all product/benefit types (e.g., income annuities vs. deferred annuities, or participating vs. non-participating products). The NYL/NWM proposal deviates from the current standard in its use of projected improvements, and does not apply the change consistently across product types.

Proposed changes for volatility controlled indexes ("index proposal")
In our work group's discussions of the index proposal, we reviewed the existing model requirements for illustrated indexes. In general, we believe the index proposal aligns with the spirit of the existing model requirements.

We recommend the following refinements to the drafting note to add helpful context, clarity, and specificity.

Drafting Note: This regulation permits illustrations of indexed returns for an index, such as a volatility controlled index, that has not been in existence for ten (10) calendar years, so long as the index meets all of the following criteria:

1. the index is comprised entirely of components that have been in existence for at least ten (10) calendar years,
2. the weighting algorithm uses a formula without discretion that cannot be changed, and,

~~the index is independently calculated by an entity different from the insurance company using the index.~~.

3. if the insurance company is affiliated with the index provider, indexes published by that index provider are also used by entities unaffiliated with the insurance company.

Specifically, we recommend the change in item 3 because members of our work group are aware of situations where insurance companies and index providers are affiliated, but the index provider commonly publishes indexes to a variety of clients. These indexes appear to us to be consistent with the intended objective of the drafting note.

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We hope these comments are helpful. Please contact Ian Trepanier, the Academy's life policy analyst (trepanier@actuary.org; 202-785-7880), if you have any questions.

Sincerely

Linda Rodway, MAAA, FSA
Chairperson, Annuity Illustration Work Group
American Academy of Actuaries