July 1, 2022

Mr. Peter Weber, Chair
Mr. Tomasz Serbinowski, Vice Chair
National Association of Insurance Commissioners
LATF Index-Linked Variable Annuity (ILVA) (A) Subgroup

RE: ILVA Subgroup Exposure of *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts*

Dear Messrs. Weber and Serbinowski:

The American Council of Life Insurers (ACLI)[1] and the Committee of Annuity Insurers (CAI)[2] appreciate the opportunity to submit comments to the ILVA Subgroup on the third Exposure of *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts* (Third Exposure).

As you know, we submitted extensive comments on January 27 on the Subgroup's original exposure of a proposed ILVA Actuarial Guideline (AG) and again on May 2nd in response to the Revised AG exposed on April 1st. We appreciated the immediate impressions and feedback you provided on our comments when we met virtually on May 3rd and the time we were given on the May 17th ILVA Subgroup call to present our recommended changes and receive additional regulator feedback. Subsequently, on the May 18 ILVA Subgroup call, there was regulator support for a less prescriptive approach.

We are gratified to see that the Subgroup incorporated most of our comments, at least conceptually, in the more principles-based approach reflected in the Third Exposure. Some of the critical changes bringing us closer to a workable final product include:

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[1] The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

[2] The Committee of Annuity Insurers is a coalition of life insurance companies that issue annuities. It was formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of public policy with respect to securities, state regulatory and tax issues affecting annuities. The CAI's current 30 member companies represent approximately 80% of the annuity business in the United States.

- The change in the definition of "Fixed Income Asset Proxy" to permit market value adjustments ("MVAs") (as noted below, this does not address MVAs where the duration of the investments differs from the index strategy terms).
- The elimination of prescriptive unwind costs and the related addition of a definition of "Trading Cost" to encompass the additional cost of liquidating the derivative assets in the Derivative Asset Proxy
- The addition of revised language specifying that Interim Values must be "materially" consistent with the value of the Hypothetical portfolio over the Index Strategy Term.

The ACLI and the CAI would, however, urge the Subgroup to consider several important additional modifications to the Third Exposure so that it appropriately addresses significant risk management requirements and aligns with the flexibility needed for market valuation. Our recommended revisions, reflected in the attached mark-up of the Third Exposure, provide suggested language related to the application of MVAs, alternatives to protect the confidentiality of proprietary information in the actuarial memorandum, and revised language to clarify the applicability of Section 7 of Model 250 to RILAs.

More particularly, our principal revisions are found in the <u>Text</u> of the Third Exposure as follows:

- Fixed assets held by insurers may be invested based on Index Strategy Term length, surrender charge length or other lengths. In order to provide appropriate equity between insurers and contract holders, it is important that insurers be able to apply MVAs either as part of the Interim Value computation, at the contract level, or some combination of the two. This would allow the MVAs to be aligned with the insurer's investment strategy. Therefore, in the early part of the Text we have added a provision that expressly acknowledges these different scenarios. With this added provision, the subsequent language, specifying that the value of the Fixed Income Proxy may include an MVA, can be abbreviated. We are seeking this adjustment because, in the current draft, the Fixed Income Asset Proxy is tied to the length of the index term. A reader might assume that the MVA term length therefore must also equal the Index Strategy Term length.
- We have added language that would explicitly allow for standard market consistent valuation techniques other than Black-Scholes because some options cannot be valued with a closed-form solution like Black-Scholes.
- We have specified that an actuarial certification must be included with each RILA product filing
- We have proposed two alternatives to protect the confidentiality of proprietary information required by the addendum to the actuarial memorandum
- We have also added language to clarify the applicability of Section 7 of Model 250 to ILVA Index Strategies. We continue to be concerned that regulators who were not involved in the development of the AG may misinterpret Section 7B of Model 250 to require that ILVA Strategy Values comply with Model 805 unless those Strategy values vary according to the investment experience of a separate account. Therefore, we believe that ILVA Strategy Values should be exempted from Section 7B. This exemption will not affect Section 7B applicability to certain accounts such as a non-registered fixed account offered as part of an index-linked variable

annuity contract. The AG also needs to clarify that MVAs, however imposed, are considered part of aggregate ILVA Strategy Values specifically for determining non-forfeiture benefits and the appropriateness of the contract's surrender charges and other loads.

The ACLI and the CAI appreciate the opportunity to comment on the Third Exposure and we urge continued discussion and collaboration to finalize an AG that satisfies our shared view of equity to both contract holders and insurers in the design and administration of ILVA products.
Respectfully submitted,

AMERICAN COUNCIL OF LIFE INSURERS (ACLI)

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