

Brian Bayerle
Senior Actuary

September 22, 2020

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Re: APF 2019-34

Dear Mr. Boerner:

The American Council of Life Insurers (ACLI) appreciates the opportunity to comment on APF 2019-34 regarding modified coinsurance (“ModCo”) reserves. ACLI has several concerns and comments with this amendment:

Concerns:

1. Information gathering and practical concerns: It is not clear that the concerns this APF addresses are a widespread issue. Regulators should contemplate gathering additional information to better understand the magnitude of the issue and possible reasons such analysis is not being done. Furthermore, this APF may put additional burdens on companies which should be better understood before adoption. The APF seems to require standalone asset adequacy analysis on ModCo blocks. This can significantly increase the workload and poses some issues:
 - a. Ceding companies may not have the ability, expertise, or data to perform testing. The asset adequacy of the modco ceded business should only be an issue for the ceding company if it believes that the assuming company will not be able to cover the future claims.
 - b. Assuming companies do not generally run standalone asset adequacy analysis as the business is aggregated with other blocks. Running standalone testing raises many questions such as allocation of expenses and allocation of hedging assets that are outside of the ModCo account. Further, performing asset adequacy analysis on a stand-alone basis could produce very different results than the aggregate due to lost diversification effects.
2. Reporting by either company: We believe it would be preferable to allow, subject to appropriate limitations (jurisdictional, regulatory approval of changes, etc.), either the ceding or assuming company to report the asset adequacy analysis as long as it is very clear which company is reflecting the analysis. This would provide much greater flexibility for

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companies. If this approach were taken, we would suggest a certification (item 7 below) from the assuming company stating they are reflecting the analysis results in their Opinion unless the ceding company is reflecting the results.

Scope:

3. Materiality: The APF would apply to immaterial blocks of ModCo that would not meaningfully impact a company's solvency. Perhaps a materiality threshold, either consistent with the APPM or as a certain dollar amount of reserves or percentage of the ceding company's surplus, could be established for these requirements to apply.
4. Separate Account assets: As drafted, this APF would be applicable to both general and separate account assets. As assets are protected within the separate account, regulators should consider if insulated Separate Account ModCo reinsurance would be exempt from this APF.

Areas for Clarification:

5. Concerns around retrocessions: We request the APF make clear that if the asset adequacy analysis for business reinsured on a ModCo basis must be reported by the ceding company, this requirement should only apply to the directly issuing company or any reinsurer who first cedes this business on a ModCo basis. As drafted, any reinsurers who assume business on a ModCo basis and then retrocede this same business may have to do additional analysis; however, reinsurers may not have the data necessary to perform asset adequacy analysis for such business. We would suggest the following edits to the first paragraph of the guidance note:

Guidance Note: The asset adequacy analysis may be performed by either the ceding or assuming company. The result of the asset adequacy analysis **may** be reported in **either the ceding or assuming company's ~~the ceding company's~~ actuarial memorandum, with the ceding company noting if it is reported in the assuming company's actuarial memorandum with a reference to assuming company's certification.**

Other Suggestions:

6. Disclosure of ModCo amounts in table: It may be more appropriate to show Formula Reserves but with an explicit Analysis Method indicating ModCo ceded so they are clearly identified, such as Documented Conservatism-ModCo. A similar approach could be done for ModCo assumed, or perhaps a separate section in the table for ModCo assumed.
7. Certification: Per our suggestion in item 2, if the assuming company is doing the analysis, they would provide certification to the ceding company that such business was included within the scope of the assuming company's Opinion. If the business is immaterial (item 3), the assuming company could state that in the certification.

As regulators contemplate additional information gathering and revisions to this APF, we would suggest that existing state practices be reviewed and considered.

We look forward to a discussion of this topic.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Banerji".

cc: Reggie Mazyck, NAIC