

November 2, 2022

Rachel Hemphill, Chair
Craig Chupp, Vice Chair
Life Actuarial (A) Task Force
National Association of Insurance Commissioners

**RE: LATF Exposure of Actuarial Guideline ILVA: Nonforfeiture Requirements for
Index Linked Variable Annuity Products**

Dear Madam Chair and Mr. Vice Chair:

The American Council of Life Insurers (ACLI)¹ and the Committee of Annuity Insurers (CAI)² appreciate the opportunity to submit the following comments to LATF on their exposure of *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products*. We would also like to thank the ILVA Subgroup for addressing many of our previous concerns.

Introduction: ILVAs and the ILVA Marketplace

As you know, the ILVA market has seen substantial growth over the past several years. ILVAs fill an important midpoint on the risk/reward spectrum – between conventional fixed indexed annuities and conventional unit-linked variable annuities – that is consistent with the investment objectives and risk tolerances of many retirement savers. The growth of this market has been fostered by the diversity of ILVA product designs that offer consumers a wide variety of linked indexes/benchmarks, different index crediting terms, and perhaps most importantly a wide variety of crediting strategies that incorporate different crediting and protection features. This diversity has also been aided by the increasing number of carriers offering these products, and the fact that ILVAs are being distributed and offered through a variety of different distribution channels that have afforded meaningful ILVA choices to consumers.

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.

Insurers manufacture ILVA products by investing in fixed income assets with a return that covers the cost of the indexed liability benefits, expenses, and profit/risk margins. This chassis is also similar to other products treated as variable annuities that are exempt from the NAIC's Standard Nonforfeiture Law for Individual Deferred Annuities (Model 805), such as modified guaranteed (MGA or MVA) annuities.

Substantive Comments

We appreciate that LATF does not want to see undue disruption to the ILVA market, particularly since this market is clearly meeting an investor need that was not previously being met with other annuity or investment products. We share that goal. Consequently, the ACLI and CAI have worked diligently throughout the Subgroup's process of developing the ILVA AG to provide input intended to ensure that the AG is principles-based, recognizes the diversity of ILVA designs in the marketplace and would accommodate ongoing innovation. Our remaining comments on the exposure draft of the ILVA AG are offered in that spirit.

Our members continue to have certain concerns around the Mark to Market Adjustment also referred to as the Market Value Adjustment (MVA) in the guideline. The concerns are related to adhering to the Actuarial Guideline (AG) principles of equity and consistency between asset and interim values, consumer choice and understanding, product diversity, practical product design considerations for companies and consumers, and the management of the risks related to the fixed income portion of the ILVA structure. While the AG may address certain regulatory concerns, we feel that there are practical considerations that need to be addressed in the guideline in order to allow insurers to continue to offer certain product features that are consistent with the AG principles and are valued by consumers.

With our consumers in mind, we respectfully request that the guideline maintain the level of MVA flexibility offered in previous exposure drafts. Multiple methods exist to satisfy the principles of the AG with respect to reflecting the fixed income asset performance in the interim values and the AG should allow flexibility for these variations. In that regard, the AG should not impose a mandatory requirement of MVAs or only permit MVAs tied to the maturity of the Fixed Income Asset Proxy. This flexibility would allow companies discretion on whether and how to provide an MVA, while maintaining equity between the consumer and company. Additionally, this would preserve consumer choice in an unbiased manner while limiting the disruption in the marketplace.

The items that we have raised through our questions and the requested language updates to the AG (attached) are outlined below:

Clarifications focused on consumer choice and flexibility:

Allow a Market Value Adjustment (MVA) Term Length equal to the Index Strategy Term in addition to the maturity of the Fixed Income Asset Proxy

This approach was included in previous ILVA Subgroup exposure drafts and aligns well with the principles of the guideline. This allows the MVA to be connected to a consumers' Index Strategy Term selection(s) while the company may design their Asset-Liability Management (ALM) practice around the

liability duration. Investment strategies may change over time, so it may become impractical to bring in determination of underlying asset duration in all situations.

In addition, this approach would allow for simplification of the MVA calculation for products with design features such as: multiple premiums in flexible premium contracts; commingling of funds in Index Strategies with different asset durations; reinvestment of Index Credits; and the existence of guaranteed death or living benefit features, if applicable. For example, a flexible premium contract could have an Index Strategy with some premium past the surrender charge period and some still within the surrender charge period (where there may be different investment strategy durations). This would be further complicated by varying durations of index credits from previous index strategy periods as well as benefit charges assessed against the index strategy for death or living benefit features. We have included an example in the attached Excel document to illustrate the need for the requested flexibility.

ALM practices are typically tied to liability duration. To allow this functionality within the guideline, the following update (**bolded**) should be made in the Text section:

“The market value of the Fixed Income Asset Proxy is its book value (using the yield from above) adjusted **for any applicable** market value adjustment formula (MVA) **either consistent with the Index Strategy Term or** appropriate for the maturity of the Fixed Income Asset Proxy.”

Applicability of MVAs

Allowing ILVA designs without MVAs is consistent with ensuring more choice in the marketplace. Consumers who purchase ILVAs do so primarily to participate in equity performance while maintaining a level of downside protection. In many cases, interest rate exposure is not a primary motivation for investing in an ILVA contract, which can be shown as there are currently substantial consumer investments in both ILVAs that include MVAs and ILVAs that exclude MVAs.

ALM practices exist such as a cash flow matching strategy, where the underlying cash flows mature to support the policyholder value upon surrender. In these practices, an Interim Value without an MVA ensures consistency with the Hypothetical Portfolio and Interim Value preserving equity between the consumer and company.

Allowing for a Fixed Income Asset Proxy that does not apply an MVA is consistent with the equity principle set forth in the AG. We believe flexibility should be allowed to offer designs where no MVA is applied to accommodate consumer choice.

The following updates to the Guideline are necessary to address this concern. These updates would be required in the following sections in addition to the update (‘for any applicable’) outlined above (**bolded**):

Drafting Note: In determining the market value of the Fixed Income Asset Proxy an MVA **may be** applied to the book value of the fixed **income** assets to approximate the market value of the fixed income assets supporting the ILVAs.

Certifications: The market value adjustment, **if any**, applicable to the Fixed Income Asset Proxy, is expected to produce results reasonably similar to changes in the market value of the fixed

income assets supporting the ILVA and the formula provides for reasonable equity between the contract holder and the insurance.

Descriptions: The market value of the Fixed Income Asset Proxy including **any applicable** market value adjustment formula.

Clarification focused on preserving equity and consistency between asset and interim values:

The index-linked crediting strategies offered in ILVA products generally offer very straightforward point-to-point payment structures, for example, crediting an index return up to a cap. These simple, consumer friendly designs are critical for consumer understanding. In situations where the maturity of the Fixed Income Asset Proxy (for example 6 years) is longer than the Index Strategy Term (for example 1 year), the current draft could be interpreted to either (i) require the MVA also be part of the amount credited to the consumer or (ii) require that the MVA does not apply on a term end date.

- Requiring the MVA to be included in the Index Strategy Base (i.e., essentially credited to the account) conflicts with the point-to-point crediting of the product, would be very confusing to consumers, and would be disruptive to the overall ILVA market.
- If no MVA can apply on a term end date, it introduces potential for very negative consumer experiences due to significant variations in surrender values when crossing crediting anniversaries. This would also introduce inequities between persisting and lapsing consumers.

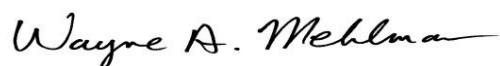
Our suggested edit resolves potential disconnects, clarifies that an MVA may be applicable on a term end date for surrender purposes, maintains simple product functionality, and preserves the AG principles (equity and consistency of asset and interim values). We request a modification to the first sentence in the Text section as follows (**bolded**):

The Index Strategy Base must equal the Strategy Value (**excluding any market value adjustment**) at the Index Strategy Term start date.

The ACLI and the CAI appreciate the opportunity to comment on this exposure and we urge LATF to consider our recommendations as it continues its progress towards a final AG.

Respectfully submitted,

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