Dear Mr. Boerner and Mr. Andersen,

Thank you for the opportunity to comment on AG 49-A.

I concur with the findings noted in the exposure:

* Some carriers allow illustrations of certain index accounts to reflect account credits that exceed the maximum provided by the Benchmark Index Account (BIA) under AG 49-A
* These illustrations are for accounts based on proprietary volatility-controlled indexes that:
  + Backcast at least as well as the BIA has performed historically,
  + Have lower hedging costs than the BIA, and
  + Are paired with a fixed bonus that is not offered with the BIA
* For these accounts, some carriers allow account credits to include index credits as high as the BIA *plus* a fixed bonus (supported by the hedging cost savings) resulting in total account credits higher than the BIA.

I believe these illustrations are an issue under AG 49-A:

* **These illustrations violate the spirit of the regulation –** AG 49-A placed a limit on illustrated performance so that no index account could show account credits exceeding those of the BIA, thereby ensuring no illustration was overly aggressive. While the regulation at the time was aimed at accounts with multipliers, it was clear that the intention was for the maximum limit to apply to all types of accounts. Volatility-controlled index account illustrations directly circumvent these guardrails by allowing higher illustrated rates.
* **These illustrations are supported by imprudent assumptions:**
  + **Reliance on backcasting –** Carriers justify the illustrated performance of volatility-controlled index accounts with hypothetical backcast performance, not real historical performance. Hypothetical backcasting is subject to survivorship bias, can be a poor indicator of future performance, and should be treated with a high degree of skepticism. Afterall, it is very easy to create winning index strategies in retrospect.
  + **Reliance on excessive hedging profits –** In order for volatility-controlled index accounts to offer index credits as large as the BIA but with lower hedging costs, the illustrations must implicitly assume hedging profits greater than the profits assumed from hedging programs supporting the BIA and, in the case of some carriers, greater than the 45% hedging profit limit in AG 49-A (a limit that is already generous). These are very large levels of profit to assume from a new and untested asset.

Put simply, these illustrations present consumers with a rosy view of the future supported by scant evidence. These aggressive practices should be addressed swiftly. In the near-term regulators should:

* Clarify that no index account illustration may exceed the illustrated performance of the BIA (something that was clear in the intention of AG 49-A, despite current practices to the contrary)
* Amend AG 49-A to ensure the 45% options profit maximum applies to all hedging programs

In the longer-term regulators should consider ensuring better consumer understanding of novel index accounts through additional disclosure requirements.

These actions will allow carriers to continue to offer volatility-controlled index accounts and other new and innovative features, while immediately curtailing aggressive illustration practices. To be clear, there is nothing inherently wrong with volatility-controlled indexes, fixed bonuses, or other innovative features. Carriers should continue to innovate, but action is needed when such innovation results in overly optimistic illustrations.

As you know, the life insurance industry plays a vital role in providing financial security for families. Aggressive illustrations like those being shown today risk the opposite effect, transferring risk to consumers by setting unrealistic expectations about policy performance. AG 49-A and its predecessor have protected consumers by ensuring a realistic connection between index account credits and the hedging programs that back them. LATF and the IUL Illustration Subgroup must act to assure that AG 49-A can continue to provide this protection to consumers in the future.

Thanks again for the opportunity to comment.

Sincerely,

Anonymous