***Claire Thinking, Inc.***

## *Actuarial Consulting*

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Mr. Mike Boerner

Chair, Life Actuarial (A) Task Force

National Association of Insurance Commissioners

Re: APF 2019-34

Mike,

Thank you for the opportunity to comment on APF 2019-34. The remarks in this letter pertain to modified coinsurance (“modco”) reserves held in the General Account, with required segregation of the assets supporting the modco reserves, and where the reinsurer is licensed in the ceding company’s state of domicile. Other situations, such as where assets are not required to be legally segregated, where the reinsurer is not a licensed insurer, or where the assets are in a Separate Account should also be considered. My comments also do not consider standalone testing of ceded reserves that some states may require.

Whereas APF 2019-34 focuses on requiring that the Actuarial Opinion of the ceding company include modco reserves that it holds for ceded business, it does not appear to specify any related requirements regarding the assuming company’s Actuarial Opinion. We recommend that VM-30 specify that the modco reserves held by the ceding company are subject to the assuming company’s Actuarial Opinion. The reference in the Actuarial Opinion (VM-30 Subsection 3.A.7.e) to “assets held by the company” should include, in the case of the assuming company, assets withheld by the ceding company. It is the assuming company that has the significant risks pertaining to the ceded business, including the asset risks of the funds withheld by the ceding company. It is the assuming company that is responsible for making up for any inadequacy in the reserves, whether these are entirely held by the ceding company under 100% modco or whether part is held by the ceding company as a modco reserve and the remainder held by the assuming company as a coinsurance reserve under a combination coinsurance/modified coinsurance (“co/modco”) agreement.

Co/modco treaties are substantially similar to coinsurance with funds withheld agreements where the funds withheld are less than the coinsurance reserves. In the case of a coinsurance with funds withheld treaty, the assuming company sets up the entire statutory reserve and has a funds withheld receivable. The assuming company includes the assumed coinsurance reserves in its Actuarial Opinion, while the supporting asset adequacy analysis should reflect the funds withheld assets held by the ceding company. In the case of a co/modco agreement, the assuming company holds a coinsurance reserve equal to the difference between the statutory reserves and the modco reserves. So whereas the portion of the reserve supported by assets held by the ceding company would be subject to the assuming company’s Actuarial Opinion under a coinsurance with funds withheld agreement, the modco reserves held by the ceding company in the case of a co/modco agreement should also be subject to the assuming company’s Actuarial Opinion as these two types of treaties are substantially similar and should therefore be subject to similar treatment.

Thank you for considering these comments.

Sincerely,

Sheldon Summers, FSA, MAAA

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