NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

LIFE ACTUARIAL (A) TASK FORCE
Thursday, January 23, 2025
2:00 – 3:00 p.m. ET / 1:00 – 2:00 p.m. CT
ROLL CALL

Member	**Representative**	**State**
Cassie Brown, Chair	Rachel Hemphill	Texas
Scott A. White, Vice Chair	Craig Chupp	Virginia
Mark Fowler	Sanjeev Chaudhuri	Alabama
Lori K. Wing-Heier	Sharon Comstock	Alaska
Peter M. Fuimaono	Elizabeth Perri	American Samoa
Ricardo Lara	Ahmad Kamil	California
Andrew N. Mais	Wanchin Chou	Connecticut
Ann Gillespie	Matt Cheung	Illinois
Holly W. Lambert	Scott Shover	Indiana
Doug Ommen	Mike Yanacheak	Iowa
Vicki Schmidt	Nicole Boyd	Kansas
Marie Grant	Nour Benchaaboun	Maryland
Grace Arnold	Fred Andersen	Minnesota
Mick Campbell	William Leung	Missouri
Eric Dunning	Roy Machamire	Nebraska
Scott Kipper	Maille Campbell	Nevada
Justin Zimmerman	Seong-min Eom	New Jersey
Adrienne A. Harris	Bill Carmello	New York
Remedio C. Mafnas	Charlette Borja	Northern Mariana Islands
Judith L. French	Peter Weber	Ohio
Glen Mulready	Andrew Schallhorn	Oklahoma
Andrew R Stolfi	Tashia Sizemore	Oregon
Michael Humphreys	Steve Boston	Pennsylvania
Jon Pike	Tomasz Serbinowski	Utah

NAIC Support Staff: Scott O'Neal/Jennifer Frasier

AGENDA

1. **Discuss Comments Received on Nov. 18, 2024 AG ReAAT Exposure by Topic**
    a. American Academy of Actuaries (Academy) Comment Letter
    b. American Council of Life Insurers (ACLI) Comment Letter
    c. Cayman International Reinsurance Companies Association (CIRCA) Comment Letter
    d. John Blocher Comment Letter
    e. Peter Gould Comment Letter
    f. Reinsurance Association of America (RAA) Comment Letter
    g. John Robinson Comment Letter

   h. Risk Regulatory Consulting (RRC) Comment Letter

2. **Discuss AG ReAAT Next Steps**
3. **Other Matters**

Appendix I: 11/18 AG ReAAT Exposure

Appendix II: Comment Letters on Prior AG Re AAT Exposures

Comment Letters on 11/18/24 AG ReAAT Exposure

January 15, 2025

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

Re: AAT for Reinsurance Actuarial Guideline Draft Exposure

Dear Chair Hemphill:

On behalf of the Life Practice Council (LPC) of the American Academy of Actuaries,[1] I appreciate the opportunity to provide comments to the Life Actuarial Task Force (LATF) regarding the three Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline (AG) Draft documents (the Exposure) exposed for comment until January 15, 2015[2]. The LPC believes this is an important issue and appreciates LATF's consideration of public comments.

Consistent with our prior comment letters on this topic[3], our feedback emphasizes that the Appointed Actuary (AA) should apply actuarial principles and judgment in AAT, while recognizing the need for appropriate documentation and regulatory guidance on specific risks. We emphasize that:

- Current guidelines on cash flow testing acknowledge its complexity. We suggest a comprehensive approach that considers all relevant information and analyses.
- Depending on the circumstances, multiple actuarial methods may be reasonable for evaluating reserve adequacy.

We believe new requirements should protect policyholders by focusing on areas where existing protections may fall short and addressing specific regulatory concerns. Additionally, we encourage changes to AAT that target only material reinsurance risks of concern to avoid deterring effective risk mitigation strategies, thereby minimizing adverse impacts on policyholders.

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[1] The American Academy of Actuaries is a 20,000+-member professional association whose mission is to serve the public and the U.S. actuarial profession. For 60 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

[2] Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline (AG) Exposure Questions 111824, AAT for Reinsurance AG Presentation LATF 111524, and Draft AG ReAAT 111524

[3] See LPC Comments to LATF on Reinsurance Exposure (10/10/24) and LPC Comments to LATF on Reinsurance Issues (7/19/24)

A. *Considerations on differentiating between affiliated and non-affiliated treaties*

We understand the reason the draft AG is starting with affiliate treaties is because affiliate treaties are believed to be more likely to have the data necessary to support the more detailed asset adequacy analysis envisioned by the draft AG, and that other potentially risky situations with less-than-ideal data will be addressed in a subsequent draft of the AG.

We note that data availability may differ depending on the nature of the affiliate treaty. For example, affiliate treaties between a parent and single subsidiary that cover a single risk and line of business (e.g., level term) may indeed be likely to have the data necessary for the AG's desired CFT. However, in a situation where the affiliate offshore reinsurer covers multiple risks and lines of business, it may be reasonable for the reinsurer to manage assets and liabilities on a broader basis than the single risk or line of business that is the focus of the AG. And although the cedent's AA may be able to discuss investment issues more readily with an offshore reinsurer that is an affiliate, in this situation the AA may not be able to obtain sufficient detail on the specific assets backing the reinsured liabilities due to the confidential and proprietary nature of the reinsurer's investment strategy and/or the segmented nature of the assets.

B. *Considerations on wording to reflect a disclosure-only approach for 2025 (versus expectations of additional reserves)*

We encourage the AA to consider all relevant information and analyses performed when determining their opinion on whether additional reserves are needed or not. In other words, the need for additional reserves should be determined based on the judgment of the AA that is informed by his or her holistic review of all available information including any and all analyses (e.g., analysis of the creditworthiness of the counterparty, analysis of the overall reserve sufficiency including sufficiency on other business) relating to the adequacy of the assets supporting reserves (hereinafter "holistic review", "holistic assessment", or "holistically"). If additional analysis is mandated by the AG, then that information would provide an additional data point for consideration by the AA. We do not believe the AG should mandate disclosure as an override to the AA's judgment regarding the need for additional reserves. To address this, we suggest the following language for the AG:

For year-end 2025, the AA should consider the analysis required to be performed by this Actuarial Guideline, along with other relevant information and analysis in forming their opinion regarding the potential need for additional reserves. In the event that the AA believes that additional reserves are required (based on their application of appropriate actuarial judgment), then the AA should reflect that in his or her Actuarial Opinion. This Guideline does not include prescriptive guidance as to whether additional reserves should or should not be held. As is already the case, such determination is up to the AA, and the

domestic regulator will continue to have the authority to require additional reserves as deemed necessary.

C. *Considerations on aggregation across products or lines of business within a counterparty*

We believe that the level of aggregation should reflect the availability of cash flows to the ceding company to satisfy its obligations to policyholders instead of limits by product or line of business. Where cash flows are available to the ceding company to satisfy its policyholder obligations, aggregation should be allowed. Conversely, where cash flows are encumbered or otherwise unavailable to the ceding company to satisfy its policyholder obligations, then aggregation should not be allowed. Where judgment is required to determine whether cash flows are available to the ceding company to satisfy its obligations, the AA should provide support for their decision to aggregate based on an economic evaluation of the availability of cashflows. To address this, we suggest the following language for the AG:

The level of aggregation permitted in testing is dependent on the availability of cash flows to the ceding company to satisfy policyholder obligations when such obligations come due. As a result, aggregation across products, lines of business, treaties, etc. is permitted provided the ceding company AA has determined that such aggregation reflects the availability of cash flows to the entity for which the testing is performed. Where judgment is required to determine whether cash flows are available to the ceding company to satisfy its policyholder obligations, the AA should provide support for their decision to aggregate based on economic rationale.

D. *Comments on the example at the end of the exposed slide presentation (in particular, regarding the amount of starting assets that would be part of the cash flow testing to test the post-reinsurance reserve for adequacy)*

Background

The example involves a U.S.-domiciled insurer ceding $100M in reserves to an offshore reinsurer through a coinsurance arrangement with funds withheld. The offshore reinsurer is holding $80M in reserves. The example highlights two case studies to illustrate different scenarios:

Case Study #1: $100M in “primary security” assets in the funds withheld account.
Case Study #2: $80M in “primary security” assets and $20M in “other security” assets in the funds withheld account.

Ceding Company Perspective

Assets Used in Cash Flow Testing: Assets designated for the payment of claims should be considered in cash flow testing. The AA should evaluate the reinsurance agreements to understand the terms governing access to and funding of the funds withheld account. This includes provisions that apply in situations where the reinsurer fails to pay claims.

Starting Assets for Testing: In coinsurance agreements with funds withheld, it is common for the ceding company to have access to the withheld funds to pay claims. Assuming such access is available, it may be reasonable to use $100 million in starting assets for cash flow testing in both case studies, reflecting the different attributes of the asset portfolios.

Assuming Company Perspective

Reserves and Surplus: The reinsurer holds $80 million in reserves and $20 million as "encumbered" surplus. This surplus is effectively designated for the ceding company's claims, if needed, providing a margin in case the reserves are insufficient. Over time, this margin would be expected to diminish as the $100M ceded reserve and the $80M held reserve converge.

Impact on Capital and Counterparty Analysis: If the encumbered surplus is included in the reinsurer's capital, it supports the reinsurer's capital ratios. In this case, since the same assets cannot support both reserve and capital, the AA would need to consider the implications on the counterparty's capitalization of utilizing the $20M of encumbered surplus in their cash flow testing when assessing counterparty risk.

Other Security

As the nature of the $20M "other security" assets in Case Study #2 is unspecified, the AA should consider whether those assets have predictable cashflows and are appropriate to support the specific policyholder obligations under consideration, and if so, project cash flows for those assets under various scenarios, including moderately adverse conditions.

Alternative Starting Asset Approaches

Some may suggest starting with $80M in reserves held by the reinsurer. If insufficient, the AA might incorporate the remaining $20M in the funds withheld account as these funds are designated for the ceding company's claims and are separate from other assets.

Evaluating Reinsurer Financial Strength

When assessing the reinsurer's capital strength and financial metrics, the AA should consider whether the $20M encumbered surplus supports the reinsurer's capital and consider the implications in assessing counterparty risk.

E. <u>*Comments on whether, for AG ReAAT purposes in certain moderate-risk cases, attribution analysis should supplement other analysis (e.g., cash flow testing) or be the sole analysis required.*</u>

In commenting on potential methods permitted by the AG, it is helpful to first distinguish between (a) the ability to evidence the overall soundness of reserves and (b) the quantification of additional reserves to be held in circumstances where it has been determined that additional reserves are, in fact, required.

The LPCrecognizes there are several methods other than cash flow testing that are reasonable and acceptable actuarial methods to evidence the soundness of reserves. We encourage the AG to permit and recognize the results from such other methods to be used. The following two examples may serve to clarify how the application of other methods may be used in support of the new AG requirements.

Example 1: Treaty level reserves are clearly sufficient:

In cases where the amount of reserve held by the reinsurer for liabilities assumed under the terms of a specific treaty is clearly sufficient, it may be easier for companies to use stress testing to demonstrate that this is the case. Stress test scenarios could be developed for each major risk and certain combinations of risks associated with the assumed liabilities and related assets. These stress scenarios would exceed the "moderately adverse" level of prudence typically associated with cash flow testing. By quantifying the level of liability for each of these scenarios, companies may be able to evidence the soundness of their reserves without the need to perform additional CFT.

Example 2: The potential level of deficiency is unlikely to result in the need for additional reserves at the company level:

Stress test scenarios may be used in cases where the amount of reserve being tested is not "clearly sufficient" on a standalone basis (as in example 1) but the AA recognizes that there are other relevant considerations that, when considered holistically, would make it unlikely that the company will need to hold additional reserves. For example, in the case where the AA is required to test a specific treaty that is in scope of the AG, the use of stress test scenarios may be used to determine that the reserves for this specific treaty, when cash flow tested on a standalone basis, are likely to be deficient by an amount ranging from $x to $y dollars. If the AA has tested the retained business (i.e., the business not associated with a ceded reinsurance treaty) and has determined that there is significant other sufficiency that greatly exceeds $y that is available to aggregate and offset the quantified deficiency associated with this specific treaty, then further cash flow testing of the specific treaty is unnecessary. The AA should consider all retained and ceded business in making such as

assessment to ensure that any sufficiency associated with retained business is not used more than once to cover shortfalls in ceded business. In other words, if the sum of ceded business deficiencies exceeds the sufficiency of the retained business, additional reserves would be held.

While the use of stress tests provides one example of alternate methods that may serve to support the transparency sought by regulators, these examples are not intended to suggest that stress testing is the only alternate method that may be used. We encourage the AG to include other methods that are appropriate as doing so would reduce the amount of effort required by companies to provide regulators with the needed transparency and accelerate the time needed to do so.

Regarding the use of attribution analysis, we believe that while such analysis can provide information regarding the potential sources and level of prudence in U.S. statutory reserves relative to reserves held in other jurisdictions, it does not serve to evidence the adequacy of reserves. Further, attribution analysis is a complex and resource intensive process that is likely to produce differing results depending on the order in which the analysis is performed. Therefore, we do not recommend the use of attribution analysis for the purposes of this AG. Such efforts to better understand the reasons for reserve differences using attribution analysis are better suited to an industry study.

F. *Comments on the definition of Similar Memorandum and allowing a Similar Memorandum as an alternative to cash-flow testing in some instances "if the cedant's domestic regulator finds they are able to determine whether the assets are adequate to support the liabilities, with the assistance of the VAWG".*

We believe that the goal of the AG is to address situations in which there are substantive and inappropriate reductions in the assets backing reserves due to the use of reinsurance. Such reserve reductions cannot be addressed by additional disclosure alone. Therefore, we believe that it would be appropriate to scope out reinsurance agreements for which asset adequacy testing is similar in substance to U.S. AAT (in other words, focusing on whether the *analysis* is similar and not whether the memorandum is). If the goal is to fully exempt situations in which U.S. Statutory AAT practices are already employed by the reinsurer (e.g., the reinsurer is already subject to VM-30), we recommend making it clear in section 2 that reinsurance treaties with reinsurers that are filing a VM-30 memorandum covering the subject business are excluded from the scope of the AG. For the remaining in-scope treaties (i.e., those meeting all the scope definitions and without filing of a VM-30 memorandum by the reinsurer), the goal is for the U.S. regulator to obtain asset adequacy testing analysis and results similar to what would be required under VM-30. In the event this information is already documented in another submission (for example, a filing with the reinsurer's regulator), the needs of the U.S. regulator could be met via the reinsurer filing this document

with the cedent's domiciliary regulator. This would be simpler than trying to define a "Similar Memorandum" and would increase the likelihood that the information is of form and substance that meets U.S. regulatory expectations. If this approach is used, then a definition of "Similar Memorandum" would not be needed.

We also do not believe that the Actuarial Guideline should specifically require consultation with VAWG, since the AG is applicable to requirements for the insurance company and is not prescribing requirements for regulators.

G. *Comments on Risk Mitigation under Risk Identification for Purposes of Establishing Analysis and Documentation Expectations*

Consider adding the words in italics to the Exposure's sentence on risk mitigation: "Any potential risks or risk mitigants associated with protections such as trusts or funds withheld *or letters of credit*, particularly with respect to non-affiliated transactions, may be discussed and considered."

H. *Comments on when CFT should or shouldn't be mandatory, and comments on examples of other (less rigorous) methods and when they may or may not be sufficient.*

The LPC supports the use of CFT to assess the impact of reinsurance on interest sensitive business when the AA determines, based on a holistic assessment, that additional reserves may need to be held at a company level by the ceding company. Further, where practicable, CFT can be used to quantify the amount, if any, of additional reserves needed to be held.

However, in situations where CFT is impracticable or where it is unlikely that additional reserves will be required, the LPC supports the use of other reasonable methods which may serve to provide regulators with the transparency and assurances required but at a lesser cost (a specific example of such alternate methods is provided above in Section E).

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If you have any questions or would like to discuss these comments further, please contact Amanda Barry-Moilanen, the Academy's policy project manager, life.

Sincerely,

Jason Kehrberg, MAAA, FSA
Chairperson, Life Practice Council
American Academy of Actuaries

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January 15, 2025

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Fred Andersen,
Minnesota Department of Commerce

Re: AAT for Reinsurance NAIC Fall National Meeting Exposures

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the Asset Adequacy Testing (AAT) for Reinsurance exposure materials from the NAIC 2024 Fall National Meeting.

Industry remains committed to helping the NAIC address its priorities, which includes providing regulators transparency into company analysis related to asset-intensive reinsurance transactions ("reinsurance transactions") in a consistent manner across states. Industry also supports the NAIC's goal of closing the protection gap, which necessitates maintaining a healthy and transparent reinsurance marketplace that helps facilitate the transfer of risk, which in turn enables companies to offer more affordable products to policyholders. In addition to addressing the exposure questions, we are also providing our recommendations regarding a phase-in of reinsurance transactions in scope for 2025 and that other acceptable forms of analysis in addition to cash flow testing (CFT) be permitted by the proposed Guideline. Our primary recommendations are as follows:

- Employ a phase-in approach to the reinsurance transactions in scope, with 2025 focusing on transactions identified by regulators as having the highest potential risk;
- Allow alternative methods of analysis that may be readily available and address the concerns raised by regulators by providing insight into the assets and assumptions underpinning reserves;

The American Council of Life Insurers 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 275 member companies represent 93 percent of industry assets in the United States.
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- Focus on the potential risk associated with reinsurance transactions rather than differentiating between affiliates and non-affiliates. Require disclosure regarding the availability of data from the assuming company and how the Appointed Actuary got comfortable with their analysis. We note that data necessary for robust CFT may not always be available;
- Maintain a disclosure-based approach consistent with Actuarial Guideline 53 (AG 53) which provides greater flexibility and encourages collaboration between regulators and Appointed Actuaries to address the complexity and bespoke nature of reinsurance transactions;
- Allow aggregation at the counterparty level across lines of business reflecting the benefits of diversification and risk management practices; and
- Allow the use of all available assets to support the policyholder liabilities in any analysis.

<u>Phase-in Approach for 2025</u>

Recommendation: For 2025, we recommend an initial implementation of the proposed Guideline be limited to reinsurance transactions where regulators have identified potential material risks of interest. Industry would like to work with regulators on developing an objective set of criteria to determine which reinsurance transactions should be in scope. We further suggest limiting any such analysis to transactions effective 1/1/2020 and later.

Situations may arise where some of the data being contemplated by this exercise may not be available to the cedant. We suggest that the Appointed Actuary be required to disclose what data was and was not available, assumptions that were made in the absence of such data, and any conclusions from their analysis.

Rationale: Given the significant complexity of reinsurance transactions potentially covered by the proposed Guideline, a measured implementation approach is appropriate. A targeted focus allows regulators to direct their attention where they believe risk to be highest. In addition, this focus allows companies to better understand how the requirements will work in practice. The conclusions from the first year of application will give regulators and industry a foundation to achieve meaningful transparency while maintaining a healthy reinsurance marketplace.

The proposed 1/1/2020 start date provides a reasonable balance between including a meaningful number (and size) of asset-intensive transactions and right-sizing the scope of work for 2025.

<u>Acceptable Forms of Analysis</u>

Recommendation: The proposed Guideline should allow for various methods of demonstrating adequacy. CFT may be appropriate for certain transactions but should not be required. Other forms of acceptable quantitative analysis could include robust stress testing and ongoing performance monitoring processes. Qualitative reviews being performed by cedants, both when entering into a transaction and on an ongoing basis, may also be useful in assessing the collectability of amounts due from assuming companies. Similarly, an actuarial memorandum prepared for the assuming company's domiciliary jurisdiction may provide sufficient transparency into the assets and actuarial assumptions used in the calculation of the reserves of the assuming company.

Rationale: There are numerous quantitative, model-based approaches actuaries use to demonstrate that assets are adequate to support the liabilities. These existing quantitative methods can provide meaningful information to regulators to aid in their understanding of potential risks and

their assessment of any deficiencies in a more efficient manner than through the creation of additional models or reports. These approaches will provide regulators insight into the cedant's risks while considering any risk mitigants in place. Additionally, other forms of analysis may be more appropriate than CFT in certain instances such as when assuming company data is not available.

Considerations for Wording Regarding Differentiation between Affiliated and Non-Affiliated Treaties

Recommendation: The proposed Guideline should focus on a risk-based approach and not create separate requirements for affiliated and non-affiliated transactions; for this reason, definitions for "affiliate" and "non-affiliate" may not be necessary. The data challenges that exist for non-affiliates may also apply to affiliates in some situations. To the extent that data is unavailable, the cedant's Appointed Actuary should disclose these data limitations as well as provide the assumptions used in their analysis.

Rationale: We support focusing on transactions with greater potential risk rather than distinguishing between affiliate and non-affiliate.

Disclosure Based Approach

Recommendation: Consistent with the approach taken under AG 53, the proposed Guideline should remain a disclosure-based framework beyond 2025.

Rationale: Given the varied and complex nature of asset-intensive reinsurance transactions, it is challenging to develop a set of requirements that are right-sized and appropriate for all reinsurance treaties and the associated cedants. A disclosure-based approach provides the necessary transparency into these transactions, allowing regulators to engage in dialogue with the Appointed Actuary so there can be a mutual understanding of the potential risks, the management of those risks, and whether such risks are appropriately recognized in the Actuarial Opinion. The flexibility of a disclosure-based approach enables the Appointed Actuary to provide targeted, transaction-specific evidence, as well as their evaluation of the available evidence as part of their Opinion. As an example, AG 53 provides an effective, disclosure-based model for the proposed Guideline by:

- Evolving based on what regulators have learned from prior years' submissions;
- Providing insight into assets used to support asset adequacy testing while not imposing requirements that may not be appropriate in all situations;
- Allowing regulators to identify outlier companies; and
- Addressing industry concerns around regulatory uncertainty.

Aggregation

Recommendation: Aggregation is fundamental to the business of insurance, and we suggest that the proposed Guideline allow aggregation that aligns with the underlying economics and risks associated with an adverse counterparty event (i.e., a counterparty would fail at the entity level rather than product or treaty level). A cedant should not have to separately test product types or reserving categories within a single counterparty given these categories serve a purpose different than assessing the adequacy of a company's aggregate reserves. Furthermore, we suggest an allowance for aggregation with asset adequacy testing results for business the cedant has retained in a manner that is consistent with how the business would be tested in the event it was to be recaptured by the cedant.

Rationale: Broad aggregation is generally permitted and appropriate in asset adequacy analysis, including CFT. This allows for reflection of prudent risk management practices and the diversification benefits that are derived from those practices.

ASOP 22, section 3.1.4 supports this concept as follows:

> *When performing an asset adequacy analysis, the actuary may aggregate reserves and other liabilities for multiple blocks of business if the assets or cash flows from the blocks are available to support the reserves and other liabilities of the aggregated blocks of business. When performing this aggregation, the actuary should not use assets or cash flows from one block of business to discharge the reserves and other liabilities of another block of business if those assets or cash flows cannot be used for that purpose.*

Reinsurance transactions should not be solely assessed on individual components of the transaction, because doing so would not provide a holistic view of counterparty and cedant solvency. Counterparty aggregation metrics are also necessary to provide regulators with meaningful information to holistically assess the impact of the reinsurance transaction.

Starting Assets

Recommendation: The starting assets to be included in the analysis should reflect all available assets to meet the obligations to the policyholders.

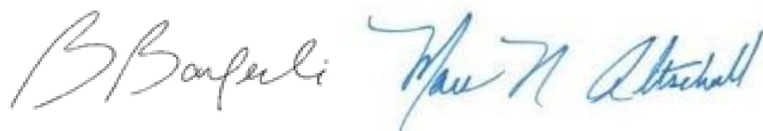
Rationale: In the event of an adverse event, the cedant may have dedicated assets backing the reinsurance transaction that exceed the amount of the reserve held by the assuming company. For example, in situations where a trust is over-collateralized (e.g., 105% of statutory reserves), it seems logical that a company could use all of those assets in their analysis. Also, we support that the principle that assets used for ceded reinsurance analysis be treated no differently than assets used for analysis of retained liabilities.

Other Feedback on Slides

The NY 7 interest rate scenarios should not be required for analysis of ceded risks as they are not required to be used in the analysis of retained risks. The Appointed Actuary should determine appropriate moderately adverse scenarios consistent with the standard testing performed under VM-30.

Thank you for the opportunity to provide feedback on this exposure and we are available to answer any questions that you may have.

Sincerely,



Scott O'Neal, NAIC

January 15, 2025

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Dear Chair Hemphill:

Thank you for the continued opportunity to provide comments on the Life Actuarial (A) Task Force (LATF) AAT for Reinsurance Actuarial Guideline Draft exposure. I write as a representative of the Cayman International Reinsurance Companies Association (CIRCA).

CIRCA is taking the offered opportunity to comment on the slides and AG ReAAT Draft presented at the November 15 Life Actuarial Task Force meeting from the perspective of our member companies that are unauthorized reinsurers in the eyes of the NAIC. As such, our member companies enter only into fully collateralized agreements with any U.S. based cedants to assure the cedant may take full reserve credit. These requirements were created by the NAIC to protect the interests and solvency of U.S. regulated insurers.

The starting asset balance in the Case Study is very much at the heart of the issue CIRCA has focused on in our previous letters. The starting asset balance should be the Contractually Obligated Assets under the reinsurance treaty. Contractually Obligated Assets would be defined as the required balance of any Modco, Funds Withheld or Trust account plus any additional trusteed assets held in any comfort trust. The required balance of the Modco, Funds Withheld or Trust account would be no less than the U.S. Statutory Reserve ceded to the reinsurer. These accounts could also include a level of negotiated overcollateralization. The assets held in these accounts are custodied in the U.S. and the ceding company has the contractual unrestricted right to withdraw the assets to settle ceded claims or upon a default by the reinsurer.

Given this level of committed assets to the transaction, we believe the starting asset balance in the case study should be the $100 in custodied assets and not the $80 of post-reinsurance reserve. The post-reinsurance reserve is the result of a different accounting regime but an unauthorized reinsurer has Contractually Obligated Assets committed that are no less than the $100 ceded U.S. Statutory Reserve and that full amount should be modeled to support the ceded liabilities.

Similarly, as we suggested in our last comment letter, we believe the Contractually Obligated Asset balance should be used in place of the post-reinsurance reserve in any attribution analysis. The conclusion reached then in attribution analysis is that there is no reserve decrease and fully collateralized agreements represent a low risk to the ceding company.

We agree in concept that Contractually Obligated Assets would be limited but to what we previously defined as “Acceptable Assets”. This expands upon the stated limitation to Primary Security to include Other Securities as defined in AG 48 Section 4E as “any asset, including any asset meeting the definition of Primary Security, acceptable to the Commissioner of the ceding insurer’s domiciliary state.” Further note that the ceding company’s domiciliary regulator has a

direct line of sight to the assets withheld by the cedent in Modco or Funds Withheld accounts and these must qualify as admitted assets in that state.

CIRCA again appreciates the opportunity to provide comments to LATF and thanks you for your consideration. We welcome any opportunity to discuss these and any other points further as the Task Force deems appropriate.

Sincerely,

Gregory L Mitchell

Chair of Board of Directors
Cayman International Reinsurance Companies Association.

A Brief Walk-Through of Draft AG ReAAT from a Smaller Company Perspective

2. <u>Scope</u>

A. Asset Intensive Reinsurance Transaction does not involve submitting a VM-30 memorandum to US state regulator and was established after 1/1/2016. The reinsurer is unaffiliated with the ceding company.

Item (3) is the criteria met. The ceded reserve credit is around 250 million of MYGA annuity reserves and represents more than 10% of the ceding company gross Exhibit 5 reserves.

B. No significant collectability risk for any current or future years.

4. <u>Risk Identification</u>

A. A low risk transaction.

B. Relevant Risks:

(1) No VM-30 Actuarial Memorandum.
(2) Ceded plus retained reserve is the same reserve held as if there is no reinsurance.
(3) No use of non-Primary Securities to support reserves.
(4) No significant collectability risk – Treaty operating optimally - (a-f) all good.
(5) Unaffiliated.

C. Risk Mitigation:

- Funds Withheld on a Coinsurance Basis. We cede between 60% and 80% of a specific subset of our total MYGA annuity product issues on a flow basis.
- Investment Guidelines for the ceded assets agreed to, implemented and monitored.
- Additional comfort trust established equal to 3% of the ceded reserves.
- General monitoring of reinsurer financials, ratings, and publicly available information.
- The treaty is a small portion of the total reinsurer assumed reserves.

D. Reinsurer is Bermuda-based.

5. <u>Analysis and Documentation Expectations in Light of Risks</u>

A. Lowest risk should mean least rigorous analysis

B. No GPV available, no Attribution analysis available. This is a low risk situation.

C. One treaty, no aggregation.

D. The ceded portion of the assets will perform reasonably similarly to the retained portion of the assets.

E. The ceded portion would perform reasonably similarly to the retained portion of the treaty. The reinsurer might have a bit more yield, however, the shape of results will be the same.

F. Likely we would have to prepare an Asset Adequacy Memo similar to what is produced for the retained business. The reinsurer will not do this work, nor particularly assist in this effort.

6. Attribution Analysis

Ceded reserve plus retained reserve is the same reserve held as if there is no reinsurance. Presumably, an Attribution Analysis would not be required in that case. The ceding company has zero insight into the reinsurer's assumptions. *Why does anyone think the reinsurer will share the assumptions they are using with the ceding company?*

Preceding reasons should make moot any Attribution Analysis.

7. Aggregation Considerations

One treaty, no aggregation, should make moot any Aggregation Considerations.

8. Documentation

We would document whatever we end up doing in response to the AG.

Anything other than a description of the risk management as outlined above does not add any value to the Appointed Actuary, the Regulator, or any other Stakeholder.

Consideration might be given to a cost-benefit analysis of these proposed actuarial guidelines. Some companies have limited resources to complete this analysis, especially given its lack of value.

PETER GOULD

January 15, 2025

Life Actuarial (A) Task Force
NAIC

Re: Reinsurance Asset Adequacy Testing
https://content.naic.org/sites/default/files/inline-files/Draft%20AG%20ReAAT_111524_.pdf
https://content.naic.org/sites/default/files/inline-files/Reins%20AAT%20LATF%20presentation%202024%20Fall%20NM.pdf
https://content.naic.org/sites/default/files/inline-files/AG%20ReAAT%20exposure%2011.18.24.docx

Dear Members of the LATF:

I am a retiree and am writing to comment as a consumer and annuity contract owner with skin in the game. My wife and I depend on Guaranteed Lifetime Withdrawal Benefits from Roth IRA variable annuities for a considerable portion of our retirement income. We purchased our annuities as a source of retirement income we would not outlive - not as speculative investments.

Reinsurance and counterparty transactions can result in substantial reductions to Total Asset Requirements (TAR). Without your oversight and regulation, these practices increase the likelihood that I will outlive my insurer and that my contractual benefits (bought with my hard-earned dollars remitted as premiums) will not be paid to me when I need them. I don't want to be left “holding the bag”, like the 92,000 PHL Variable Life policy owners.

As a consumer, I'm opposed to any ceding of risk transaction (whether to a reinsurer, other third party or any related party, including parent) that decreases an insurer’s reserves or capital supporting contractual promises to policy owners or that reduces the insurer’s claims-paying ability. Any such transaction should be subject to mandatory cash flow testing - regardless of the identity of the counterparty. In evaluating assets, the same asset should not be double counted for purposes of reserves and capital.

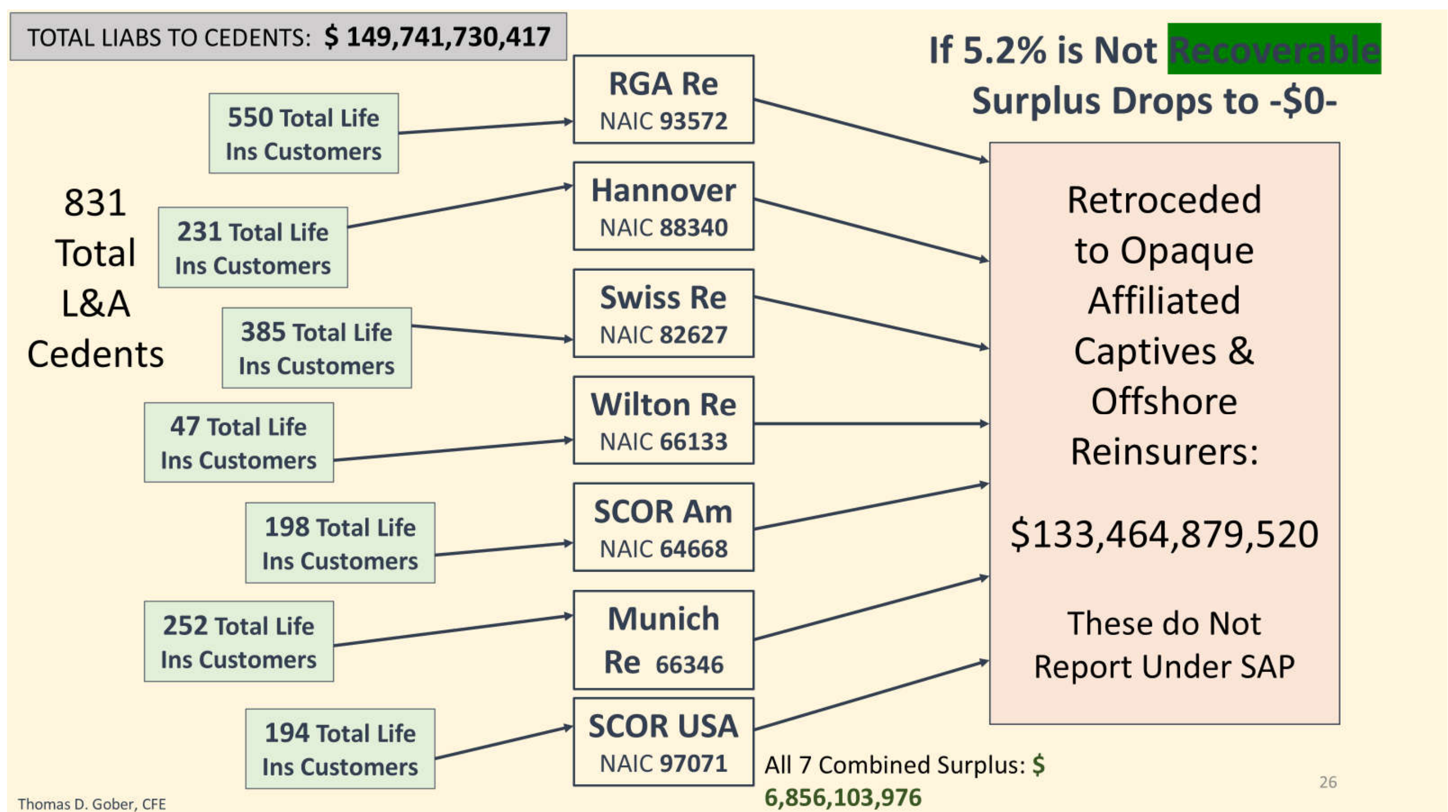
Without back-testing, I’m concerned that the net result of the AAT project might just be an “educational exercise” (as suggested in earlier comments by an industry representative), rather than a robust and predictive regimen by which you’ll be able to detect and remedy asset adequacy problems before they lead to rehabilitations. Specifically, some provisions are already noted as “agreed-to” without the benefit of any real-world back-testing.

For example, there’s the scoping criteria. How would these provisions work with industry “current events”? PHL Variable Life is a good example of reinsurance gone wrong. Under what's already agreed-to, would PHL have been scoped out? Are the scoping criteria “sensitive” enough that the problems could have been identified early enough to prevent rehabilitation? What about Columbian Life – a textbook example of risk being “ceded-up” to the parent without assets to cover the ceded risk? How would the agreed-to scoping work there?

P.O. Box 8815 Bloomington, IN 47407-8815

NAIC has the data not only for current event companies with asset adequacy issues but also has the historical data on receiverships going back many years and covering thousands of receiverships. As this project continues, I believe that we should be back-testing the various aspects being discussed with a dataset (it would be easy to identify 25 - 100 companies currently or previously in receivership with asset adequacy problem and use the anonymized data from those companies). This analysis should occur before the individual aspects and components of AAT are discussed, so that the discussions are informed by some measure of efficacy **before** the components are agreed-to.

I strongly support rigorous analysis of both domestic and offshore arrangements. Current events show that domestic arrangements are not immune to asset adequacy problems. There's been discussion about applying greater scrutiny to related and captive reinsurers. Initially, I was in favor of that approach, since the opportunities for mischief seem greater in those situations. However, upon further consideration, this stance ignores AAT issues that may have broader application to ceded risk. Another concern that our AAT project should address is the increasing concentration of reinsurance spread among a shrinking number of reinsurers. The chart below is a little dated (it's a snapshot as of 12/31/2021), but it illustrates the risk of reinsurer concentration:



Also, I propose that the scope of AAT should also be expanded to cover ceding of risk to non-reinsurer parties - an example would be ceding-up to the parent, that we see with Columbian Life.

Peter Gould

Here's a diagram of reinsurance arrangements from the recent Verizon Pension Risk Transfer court filing:

This is representative of the real-world in which the industry operates and in which the consumer is easily left holding the (empty) bag. Simplified illustrative examples can't predict the performance of the agreed-to's on arrangements like this. Without real-world back-testing as we go, we will likely have a successful "educational exercise" that fails to solve the real problems.

Thanks for your consideration of my comments and the work that you do to protect consumers.

Yours truly,

Peter Gould

REINSURANCE ASSOCIATION OF AMERICA

January 15, 2025

Cassie Brown, Chair
Life Actuarial (A) Task Force
National Association of Insurance Commissioners
Scott O'Neal
Assistant Managing Life Actuary
Via email soneal@naic.org

Re: RAA Comments on Draft Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline (AG)

Dear Chair Brown:

The Reinsurance Association of America (RAA) appreciates the opportunity to submit comments to the Life Actuarial (A) Task Force regarding the recent exposure draft of the Asset Adequacy Testing (ReAAT) for Reinsurance Actuarial Guideline (AG). The Reinsurance Association of America (RAA) is a national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates and insurance-linked securities (ILS) fund managers and market participants that are engaged in the assumption of property/casualty risks. The RAA represents its members before state, federal and international bodies. The RAA appreciates LATF's ongoing consideration of industry input, and we remain committed to providing LATF feedback on its efforts.

Expansion of Definition of Affiliate Beyond Model 440 Standard

The RAA is concerned by the development of an alternative definition of affiliate, specifically intended for the ReAAT guidance. Multiple definitions for the same item typically lead to confusion, misstatement and additional work for both regulators and insurers alike.

The current affiliate definition found in the NAIC Holding Company Act, Model 440 has been widely exposed and debated each time the Model 440 has been modified to ensure its continued appropriateness for a wide range of reporting requirements, including but not limited to statutory accounting valuation, RBC calculation, Holding Company filings, and additional regulatory oversight.

Covered Agreement Impacts

As the ReAAT work product begins to crystallize, the RAA continues to be concerned that the Covered Agreement requirements are not being fully considered. This is especially true regarding the currently exposed VM 30 exemption, where US reinsurance transactions will not be subject to this new guidance but offshore reinsurance transactions will be. The RAA thanks the Working Group for its addition of substantially similar criteria. The Covered Agreement is of critical importance and the RAA is thankful the Working Group has taken steps to mediate concerns, but the RAA wants to ensure the Covered Agreement requirements are fully considered.

The LATF indicated the purpose of this initiative is to gather information. Gathering information only on offshore reinsurance transactions may not violate the Covered Agreements between the US and EU and the US and the UK (Covered Agreements). However, if, after gathering this information, additional requirements are imposed on transactions between US ceding companies and offshore reinsurers located in the EU or UK, those additional requirements likely would violate the Covered Agreements. Furthermore, applying additional requirements to reinsurance agreements between US ceding companies and Reciprocal Reinsurers located in Reciprocal Jurisdictions would violate the spirit and intent of the laws and regulations adopted by all states regarding Reciprocal Jurisdictions and Reciprocal Reinsurers.

LATF leadership has previously expressed the intention to hold a separate dialogue to address Covered Agreement concerns. The RAA agrees with this approach and urges LATF to carefully consider how this proposal (and any modifications to it) would impact the in-force Covered Agreements.

Conclusion

The RAA appreciates the ongoing opportunity to work with you on this important project and specifically to address the reinsurance-specific concerns. The RAA remains committed to working with the LATF and sharing its concerns about potential conflicts with the Covered Agreement and the expansion of the definition of affiliate, and other issues associated with the proposed ReAAT AG. We would be happy to meet with members of LATF and NAIC staff to discuss these concerns in further detail. We look forward to further engagement on these issues.

Sincerely,

Karalee C. Morell
SVP and General Counsel
Reinsurance Association of America

Jeff Alton
SVP Accounting, Finance & Risk
Reinsurance Association of America

14567 Florissant Path Apt 203

Apple Valley, MN 55124

November 18, 2024

Scott O'Neal FSA, MAAA

NAIC

Re: Comment on RE-AAT

Scott,

Here are my comments on the 11/15/2024 draft of Re-AAT. I hope you find them helpful.

1. Definition of "Affiliate":

   Comment 1: The word "Affiliate" is not used in the draft. However, the words "affiliated", "non-affiliated" and "nonaffiliated" are used. I suggest you reconsider the definition accordingly.

   The remainder of this comment is offered if there is still a need for a definition of "Affiliate".

   According to the draft, "Affiliate" is defined as follows:
   Affiliate – Only for purposes of this Guideline means an entity that otherwise meets **the NAIC Model Act 440 definion of an Affiliate** or has 1 percent or higher ownership of the assuming reinsurer.

   The definition of "Affiliate" in Model 440 reads as follows:
   "Affiliate": An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

   Comment 2: It is unclear how the definition from Model 440 is intended to meld with the phrase "or has 1 percent or higher ownership of the assuming reinsurer".

Recommendation: Without a reference to Model 440, provide a complete definition of “Affiliate” that better reflects the intended connection.

2. Requirements:
   I find that an explicit statement of what is required of companies that meet the criteria in Scope is missing.

   Recommendation: A statement such as the following is needed:
   “Any company that meets the criteria in Section 2 is required to perform asset adequacy analysis on the Total Reserve, for each counterparty”.

   I think such a statement may be added to Section 5, immediately preceding the current Section 5.A, which indicates when CFT might be the preferred form of analysis.

3. Frequency
   “4.A. General guidance - The higher the risk, the more rigorous and ***frequent*** the analysis and documentation that should be performed by the ceding company’s Appointed Actuary.”

   Comment: I think the question of frequency my need further consideration. My proposal in 2. above suggests that asset adequacy analysis should be performed whenever the criteria in Scope are met. The provision for frequency should be consistent with the directive as to when to perform the analysis.

   Thank you.

   John Robinson FSA, FCA, MAAA

rrc risk®ulatory CONSULTING

Memo

To:	Rachel Hemphill, FSA, MAAA, FCAS, Life Actuarial Task Force
From:	Patricia Matson, FSA, MAAA, Partner, RRC Ben Leiser, FSA, MAAA, Director, RRC
Date:	January 14, 2025
Subject:	RRC Comments Regarding LATF's Reinsurance AAT Actuarial Guideline Draft Exposure

Background

The Life Actuarial Task Force (LATF) is requesting comments on the AAT for Reinsurance Actuarial Guideline Draft ("the Exposure"). LATF has asked that comments regarding specific items within the Exposure be provided by January 15th. Per LATF's request for earlier comments, RRC provided prior comment letters on September 19th, October 3rd, and October 11th. We have not repeated those items in this comment letter unless directly applicable.

RRC appreciates the opportunity to offer our comments. Should you have any questions, we would be glad to discuss our comments with you and Task Force members.

We appreciate the work LATF has undertaken to address what we believe is a critical industry issue, namely the significant use of reinsurance, including offshore reinsurance, to provide US insurers with material reserve and capital relief.

RRC has assisted regulators in reviewing a variety of reinsurance transactions that result in material reductions in the total asset requirement (TAR) backing the policyholder obligations. We understand that while these transactions are executed for a variety of appropriate business and financial strategies, we also believe that in some cases they can result in reserves or capital that are reduced to a level that raises questions about their appropriateness from a policyholder protection perspective.

RRC Comments on Affiliate Definition

RRC supports the broadest possible definition of affiliated transactions for purposes of including within the scope of the Exposure. Our rationale for this is that any affiliated or non-affiliated transaction may create risk to policyholder protection, and therefore we are in favor of scoping in a wide range of affiliated transaction and then limiting the scope based on the risk profile as laid out in section 2. We agree with the proposed definition included in the current draft based on our understanding of LATF's desire to start with affiliated transactions only. However, we also believe that non-affiliated transactions should be scoped in as soon as possible based on risk-based criteria.

RRC Comments on Similar Memorandum

We agree with exempting treaties in situations in which the reinsurer is required by law to provide a VM-30 memorandum, since such treaties are unlikely to result in a significant reduction in TAR. The VM-30

report exclusion is valuable primarily because a counterparty reporting under VM-30 is highly unlikely to have a materially lower reserve requirement, and not because the report itself would address the areas of concern (such as a material drop in reserves). Therefore, we disagree with excluding transactions solely on the basis that the reinsurer provides a VM-30-like report without actually being subject to VM-30. The treaties that we believe are intended to be scoped out, as is already covered in the Exposure (section 2, Scope), are those that are not of concern due to risk and materiality.

Given that we believe that the goal is to fully exempt situations in which US Statutory AAT practices are already employed by the reinsurer (i.e. the reinsurer is already subject to VM-30), we do not believe that a definition of Similar Memorandum is needed or should even be discussed. For all treaties meeting all of the scope definitions, and where the reinsurer does not file a VM-30 memorandum, the goal of the Exposure should be for the US regulator to obtain information regarding asset adequacy testing similar to what would be required under VM-30. In the event this information is already documented in another regulatory submission (for example, a filing with the reinsurer's regulator) or alternate document, the cedant should be able to easily and readily develop a filing for the US regulator that conforms to the form and substance of VM-30, and is consistent with it.

RRC Comments on Disclosure-Only Based Approach

As we have documented in prior comment letters, we believe that when an insurer makes a promise to its direct policyholders, it is critical for the insurer to set operational and financial standards that will enable it to meet that promise. One such standard would be to ensure there are sufficient assets to pay future claims. This does not change when the insurer chooses to reinsure the business.

Based on this important promise, in a case in which an insurer uses reinsurance to reduce reserve and capital requirements that it views as overly conservative, we believe it would be reasonable to expect the insurer to continue to hold *adequate* reserves and capital, based on US statutory requirements.

Therefore, we believe that a goal of the Exposure should be to set guardrails so that reserve financing transactions do not result in those reserves declining below a level that would be sufficient to cover policyholder obligations under moderately adverse conditions based on the US statutory framework. This seems to be a fundamental minimum, under US statutory guidance, to meet policyholder protection while still allowing for the use of reinsurance to finance reserves and reduce risk.

Therefore, we do not believe the Exposure should mandate disclosure only as an override to the use of sound reserving principles. We believe that if a transaction causes reserves to decline below a level that is needed to cover policyholder obligations under moderately adverse conditions, cash flow testing should be performed to determine if additional reserves are needed and the amount of additional reserves to be held.

RRC Comments on Starting Assets in the Example

RRC believes the guiding principle for starting assets should be consistent with existing AAT requirements for assets supporting the level of reserves being held. Therefore, the appointed actuary should consider whether any encumbered surplus is included by the reinsurer to support its capital levels, and if they are, these same assets would not be available to support the ceded business reserve adequacy analysis. However, if those assets are not included in the required capital of the reinsurer, not set aside for any other purpose other than to satisfy the ceded business claims under moderately adverse conditions, the appointed actuary may consider treating those assets as also included for purposes of performing the asset adequacy assessments. The guiding principle should be that the same assets cannot support both reserves and capital.

Thank you for the opportunity to provide comments on this important topic. we can be reached at 860-305-0701/tricia.matson@riskreg.com or 201-870-7713/ben.leiser@riskreg.com if you or other members have any questions.

Appendix I: 11/18/24 AG ReAAT Exposure

Below is a summary of tentative agreements and requests for comments in relation to the slides presented at the 11/15/2024 Life Actuarial Task Force meeting. Please provide any comments by 1/15/2025.

- **Provide considerations for draft Guideline wording regarding differentiating between affiliated and non-affiliated treaties for purposes of the Guideline.**
    - Note that there may be treaties technically designated elsewhere as "non-affiliated" but may contain affiliated aspects, including access to data on asset information. These types of treaties may be considered affiliated for purposes of the Guideline.
    - Note that discussions on handling of non-affiliated treaties with respect to this Guideline will occur mainly after issues related to affiliated treaties have been resolved, perhaps around mid-first quarter 2025.

- The anticipated adoption of the Guideline for 2025 will focus on disclosure, including the expectation of cash-flow testing to be provided in cases to be determined and as tentatively established by the size-based rules contained in the draft Guideline. The Guideline will not contain expectations on additional reserves being held as a result of the analysis. However, individual states will continue to have the authority to take action on known issues, or issues that may become known as part of that new reporting.
    - **Provide considerations for draft Guideline wording to reflect this disclosure-based approach.**
    - Note that it is possible that after regulators' review of filings, that consideration of revisions to the Guideline may take place at LATF to set an expectation of additional reserves being posted by the ceding company in certain cases.

- Aggregation would generally be allowed within a counterparty (i.e., not at a treaty level), with consideration that where the company or regulators have documented concern that aggregation benefits may not ultimately be realized across different lines of business or product types under moderately adverse conditions (e.g., where there are different PBR frameworks or reserving categories), separate cash-flow testing results by line of business or product should be produced. The Appointed Actuary should also provide support for their view on aggregation.
    - **Provide considerations for draft Guideline wording to reflect this aggregation concept.**

- **Provide comments on the example at the end of the slides, particularly regarding the amount of starting assets that would be part of the cash flow testing to test the post-reinsurance reserve for adequacy.**

Fred Andersen, Minnesota

AG ReAAT – Draft 11/15/24

Background

The NAIC Valuation Manual (VM-30) contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis.

State insurance regulators have identified the need to better understand the amount of reserves and type of assets supporting long duration insurance business that relies substantially on asset returns. In particular, there is risk that domestic life insurers may enter into reinsurance transactions that materially lower the amount of reserves and thereby facilitate releases of reserves that prejudice the interests of their policyholders. The purpose of this referral is to propose enhancements to reserve adequacy requirements for life insurance companies by requiring that asset adequacy testing (AAA) use a cash flow testing methodology that evaluates ceded reinsurance as an integral component of asset-intensive business.

This Guideline establishes additional safeguards within the domestic cedent to ensure that the assets supporting reserves continue to be adequate based on moderately adverse conditions.

Text

1. Effective date

   This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2025, Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

   Guidance Note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. Requirements in the Guideline will cease to apply to annual statutory financial statements when the corresponding or replacement VM-30 requirements become effective.

2. Scope

   This Guideline shall apply to all life insurers with:

   A. Asset Intensive Reinsurance Transactions ceded to entities that are not required to submit a VM-30 memorandum to US state regulators *{consider alternative reports or language}* in treaties established 1/1/2016 or later (perhaps 1/1/2020 or later for nonaffiliated treaties) that meet any of the criteria determined <u>by counterparty</u> in subsections (1) through (4) below:

      (1) In excess of $5 billion of reserve credit or funds withheld or modified coinsurance reserve

      (2) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:

(a) $1 billion and

(b) 2% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves

(3) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:

(a) $100 million and

(b) 10% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves

(4) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:

(a) $10 million and

(b) 20% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves

B. Asset Intensive Reinsurance Transactions ceded to entities, regardless of treaty establishment date, that results in significant reinsurance collectability risk.

(1) For year-end 2025, significant reinsurance collectability risk is determined according to the judgment of the ceding company's Appointed Actuary

(2) For year-end 2026, [placeholder for more objective guidance?]

3. Definitions

A. Affiliate – Only for purposes of this Guideline means an entity that otherwise meets the NAIC Model Act 440 definition of an Affiliate or has 1 percent or higher ownership of the assuming reinsurer.

B. Asset Intensive Reinsurance Transactions - Coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk as determined by Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation.

~~B~~C. Attribution Analysis – A step-by-step estimate of the proportion of reserve decrease from the pre-reinsurance U.S statutory reserve to Total Reserve attributable to factors such as differences in individual key assumptions.

~~C~~D. Deficient Block – When a block of business shows negative present value of ending surplus in cash-flow testing scenarios using reasonable assumptions under moderately adverse conditions such that additional reserves would be needed in the absence of aggregation.

~~D~~E. Pre-reinsurance Reserve – The U.S. statutory reserve that would be held by the ceding company for the business reinsured in the absence of the reinsurance transaction.

~~E~~F. Primary Security – [As defined in Section 4.D. of Actuarial Guideline 48] *{or replace with another term to describe a stable asset supporting reserves}*

~~F~~G. Reserve Decrease – If the Total Reserve is lower than the Pre-reinsurance Reserve, the difference between the two.

H. Similar Memorandum – An actuarial report that is not a VM-30 submission to a state that contains at least the following elements:

(1) Asset descriptions

(2) Assumption documentation

(a) "Such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions" (from VM-30)

(b) "And (form a conclusion) on whether the assumptions contribute to the conclusion that reserves make provision for 'moderate adverse conditions'" (from VM-30)

(c) Indication that key assumptions are reasonably set.

(3) Methodology

(4) Rationale for degree of rigor in analyzing different blocks of business.

(5) Include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business.

(6) Criteria for determining asset adequacy

(a) Indication of whether New York 7 risk-free rate scenarios are being modeled, presented and passed

(7) Changes from the prior year's analysis

(8) Summary of results

(9) Conclusions

(10) Relevant aspects of Actuarial Guideline 53 documentation and analysis.

(a) Indication of whether high-yield assets are being modeled with a reasonable reflection of their risk

(11) Indication of the scope, e.g., assuming company wide, counterparty (ceding company) specific, treaty specific.

(12) The actuarial report shall be prepared by a qualified actuary and be subject to relevant Actuarial Standards of Practice.

~~F~~I. Sufficient Block – When a block of business shows positive present value of ending surplus in cash-flow testing scenarios using reasonable assumptions under moderately adverse conditions.

~~G~~J. Total Reserve – The reserve held by the ceding company plus the reserve held by the assuming company minus the amount of reserves held by the assuming company supported with assets other than Primary Security.

Other definitions?

4. Risk Identification for Purposes of Establishing Analysis and Documentation Expectations

   A. General guidance - The higher the risk, the more rigorous and frequent the analysis and documentation that should be performed by the ceding company's Appointed Actuary.

   B. Relevant risks – For the purpose of determining the amount of rigor and frequency of analysis and documentation, relevant risks include one or more of the following:

      (1) A VM-30 actuarial memorandum not being provided by the assuming company to a U.S. regulator.

      (2) A significant Reserve Decrease in relation to the Pre-reinsurance Reserve.

      (3) A significant use of non-Primary Security to support reserves.

      {Is there another metric besides "Primary Security" that can provide comfort that appropriately stable assets are supporting reserves?}

      (4) Significant collectability risk associated with the reinsurer, for reasons including:

         (a) Rating of counterparty

         (b) Capital position and trend of capital position

         (c) Regulatory actions against counterparty

         (d) Liquidity ratios

         (e) Late payments on the agreement

         (f) Decline in quality of invested assets

      (5) Any potential risks associated with affiliated transactions should be discussed and considered.

   C. Risk mitigation - Any potential risks or risk mitigants associated with protections such as trusts or funds withheld, particularly with respect to non-affiliated transactions, may be discussed and considered.

   {A process would need to be developed involving approval of less-rigorous analysis for treaties that would otherwise be in the scope, including establishment of criteria and consideration from the domestic state with assistance from VAWG}

   D. Risk identification for this purpose may involve reinsurance transactions within or outside the U.S.

5. Analysis and Documentation Expectations in Light of Risks

A. Generally, cash flow testing the Total Reserve is most appropriate when there is higher risk, and less rigorous analysis may be appropriate if there is lower risk.

{In what types of cases should CFT be mandatory? Should safeguards such as trusts and funds withheld be considered as a reason not to perform CFT even for the largest, most impactful treaties?}

B. Examples of less rigorous analysis include:

(1) Gross premium valuation or other asset adequacy analysis techniques described in Actuarial Standard of Practice #22

{Is there an example of a type of case where GPV would be expected instead of CFT or attribution analysis if the focus of the AG is on asset-intensive business?}

(2) Attribution analysis

{Are the instances of "moderate risk" where attribution analysis could be the only form of analysis performed?}

C. Some aggregation may be allowed between treaties for a single counterparty subject to the considerations in Section 7.

D. The domestic commissioner continues to have the option to require cash flow testing for individual treaties or counterparties, as they may deem necessary to understand and evaluate risk.

E. Where information on cash flows or any aspect of the analysis is not available, the appointed actuary may use simplifications, approximations, and modeling efficiency techniques if the appointed actuary can demonstrate that the use of such techniques does not make the analysis results more favorable.

F. A Similar Memorandum submitted to the cedant's domestic regulator may be an appropriate alternative to cash-flow testing following VM-30 standards in some instances, if based on the Similar Memorandum the cedant's domestic regulator finds that they are able to determine whether the assets are adequate to support the liabilities, with the assistance of the Valuation Analysis (E) Working Group.

6. Attribution Analysis

A. To perform an Attribution Analysis, for each relevant treaty, start with the Pre-reinsurance Reserve and document adjustments from that reserve to get to the Total Reserve.

(1) Adjustments may include the following:

(a) Differences in key assumptions

(i) Policyholder behavior assumptions

(ii) Mortality or longevity assumptions

(iii) Investment return assumptions versus US statutory discount rates

{Is it important to analyze investment risks if the company is not reliant on aggressive asset return assumptions?}

(iv) Other key assumptions, e.g., taxes

(b) Other reserve adjustments due to:

(i) Removal of cash surrender value floor

(ii) Market value / book value difference due to change in interest rates

(iii) Moderately adverse to less adverse (or best estimate) conversion

(iv) Other, including other changes to fair value or future cash flows

(2) Please comment on the order of the Attribution Analysis adjustments, where a different order could significantly change the impact of an adjustment.

{Would attribution analysis be the sole analysis required for AG ReAAT purposes in certain moderate-risk cases, or would it only supplement other analysis?

B. Use the template or provide similar information in a user-friendly format explaining reasons for any reserve decrease.

C. It may be helpful to perform attribution analysis first between the Pre-reinsurance Reserve and another basis utilized by the cedant (e.g., the cedant's economic basis for the portion of the block ceded) and then from that basis to the Total Reserve.

(1) Please ensure comparison of dollar amounts of different reserves reflect the combined reserve held by the ceding and assuming companies.

D. Provide a narrative explanation, if necessary, to accompany the numbers provided in the attribution analysis template or similar format.

7. Aggregation Considerations

A. Aggregation through subsidy of a Deficient Block by a Sufficient Block should only apply within a counterparty.

{Are there cases where aggregation within a counterparty is inappropriate, such as between certain lines of business?}

B. Provide an explanation if additional asset adequacy analysis reserves are not posted related to a Deficient Block, where the reason is aggregation with a Sufficient Block.

C. Where applicable, explain the stability and reliability of a Sufficient Block when it is being used to subsidize a Deficient Block.

8. Documentation

   A. If cash-flow testing is performed, present New York 7 results and key assumptions, along with other results the company selects to disclose.

   B. If Attribution Analysis is performed, present the results in the template or in a user-friendly form providing similar information as in the template.

   C. If performing other analysis, present results as appropriate.

   D. Provide any narrative explanation to accompany the numerical results, including support for decisions to hold or not hold additional asset adequacy analysis reserves.

Reinsurance Asset Adequacy Testing

Fred Andersen, FSA, MAAA

11/15/2024

Agenda

1. Discuss sequence of areas of focus
2. Scope – status or past and current items
3. Aggregation - comments & discussion
4. Discuss options for content of Actuarial Guideline
5. Case studies
6. Comments on other topics
7. Potential next steps

Upcoming plan

1. Potential sequence
   - Focus on affiliated transactions now (perhaps now through January)
   - Then focus on non- affiliated specific issues such as any lack of data
2. Note that affiliated will likely need a special definition for purposes of this Guideline
   - Probably stricter than the 10% ownership definition

Status of scope topics – progress previously made

- Broad or narrow scope?
  - **Narrow, determined 10/10/24**
- Restrict consideration of cash-flow testing (CFT) requirements to asset intensive reinsurance
  - **Yes, have placeholder definition to discuss**
- Application to transactions as of certain dates
  - **Likely going with bifurcation of affiliated (wider scope of dates) and non-affiliated (narrower scope of dates)**
- Exclude from scope if assuming company files a VM-30 report
  - **A lot of support but issues to work through later**

Status of scope topics – new concepts

- Potential for lesser analysis for certain non-affiliated treaties with substantial risk protections
  - **Initial concept to consider, details need to be worked out**
- Reliance on reports similar to VM-30 / AG 53
  - **Likely a high bar, need transparency on assumptions**
  - **How is moderately adverse determined, including all key risks, incl. complex assets?**
  - **Availability of data, non-affiliated versus affiliated**
- Size
  - **Add up reserve credits (where there's no VM-30) when considering scope?**

Aggregation

- Aggregation ok within counterparties (multiple treaties with a single assuming company)?
- Consideration of line of business restrictions

Options for Actuarial Guideline content

- Option 1:
  - Anticipate the concerns we'll find in reinsurance asset adequacy testing that we should attempt to address in the 2025 adoption of AG ReAAT.
- Option 2:
  - Mainly receive disclosure for YE 2025 (reasons for reserve decreases, reserve adequacy testing in some form), ID concerns at that point.
  - And then figure out how to address those concerns, potentially through prescriptive measures

Case study - Background

- Relevant information for each case (differentiated on the next slide):
  1. Fixed income annuities with guaranteed living benefits GLBs
     - US Stat (CARVM) reserve is $100 Million
  2. Post-reinsurance reserves are 80% of pre-reinsurance reserves, $80 Million
     - Reason: lower efficiency than in CARVM of policyholder selection of GLBs
  3. US RBC: $5 Million
  4. US Total Asset Requirement (TAR) = $105 Million
  5. Bermuda affiliate
  6. Coinsurance with funds withheld
  7. "Funds withheld amount = US Stat reserves"

Setting up each case

- Case study #1
  - On US basis = $100 M US Stat reserves backed by primary security
    - + $0 capital & surplus
  - On Bermuda basis = $80 M economic reserves
    - + $20 M surplus
- Case study #2
  - $80 M primary security, $20 M other security

Attribution analysis background

- Focus on affiliated transactions for this discussion
  - Presumably data would be available
- Start with Pre-Reinsurance Reserve (US stat for life, known as CARVM for annuities)
  - (ACLI comment re: start with best estimate)
- Reserve adjustment from US stat due to assumption differences from baseline:
  - Policyholder behavior and mortality / longevity assumptions
  - Investment return assumptions versus US stat discount rate
  - Other, including:
    - Removal of CSV floor
    - Market value vs. book value
    - Moderately adverse to best estimate

Case studies – attribution analysis

- Both cases:
  - Pre-reinsurance reserve: $100
    - Deduction for policyholder behavior inefficiency: $20
    - Deduction for different in investment return assumptions: $0
    - Other deductions: $0
  - Post-reinsurance reserve supported with primary security: $80

Cash-flow testing background

- Starting assets = amount of post-reinsurance reserve supported by primary security
  - Could be book value then marked to market; or market value
- Project liability cash flows (cash surrenders, annuitizations, death benefits, premiums, expenses)
- And asset cash flows (bond coupons, par, proceeds from asset sales, other asset cash flows)
  - Offset by investment expenses, defaults, reduced cash flows due to under-performance
- Cash flows are projected across multiple risk-free rate scenarios such as NY 7
- Assumptions on: asset returns, reinvestments, policyholder behavior, mortality, expenses, other
- Assumptions and scenarios should be consistent with those applied in the cedant's AAT approach
  - Including margins reflecting moderately adverse conditions

Cash-flow testing background, 2

- Result is present value of surplus
  - This surplus metric is only related to the block of business cash flows, not company surplus
  - If negative, could be indicator of need for additional AAT reserves

Case studies – cash-flow testing

- Both cases:
    - Starting assets = $80, amount of post-reinsurance reserve supported by primary security

Cash flow testing details

- Should New York 7 risk-free rate scenarios be analyzed and disclosed?
- AG 53-like net yield and net spread exposure should also help with analysis of asset risk
- AG 53 model rigor considerations re: analyzing all key asset risks, including illiquidity
- Consider development of a template to facilitate more efficient submissions and reviews

Additional comments and next steps

Appendix II:
Comments from Prior AG ReAAT Exposures

Prior Asset Adequacy Testing for Reinsurance Comment Letters

a) Updated AAA Comment Letter
b) ACLI Comment Letter – Scope and Aggregation
c) ACLI Comment Letter – Remaining Sections
d) BILTIR Comment Letter
e) CIRCA Comment Letter – Scope and Aggregation
f) CIRCA Comment Letter – Remaining Sections
g) Missouri Comment Letter and AG Draft
h) Edit Peter Gould Comment Letter
i) RAA Comment Letter
j) John Robinson Comment Letter
k) RRC Comment Letter n. Aaron Ziegler Comment Letter

October 10, 2024

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

Re: AAT for Reinsurance Actuarial Guideline Draft Exposure

Dear Chair Hemphill:

On behalf of the Life Practice Council (LPC) of the American Academy of Actuaries,[1] I appreciate the opportunity to provide comments to the Life Actuarial Task Force (LATF) regarding the AAT for Reinsurance Actuarial Guideline Draft (the Exposure). The LPC believes this is an important issue and appreciates LATF's consideration of public comments.

In response to the Exposure, the LPC offers the following feedback, which we developed to express our view that the Appointed Actuary should be able to apply actuarial principles and judgment in their Asset Adequacy Testing (AAT), while understanding the need for regulators to provide additional guidance regarding the specific risks causing concern.

It is important to us that any new requirements appropriately consider the protection of insurance company policyholders and the general public. Therefore, we support exploring where existing policyholder protections may not be working as intended, with any necessary new requirements focused on ensuring an appropriate level of policyholder protections based on risk.

Further, we recognize that reinsurance has proved to be an effective risk mitigation tool and believe that any changes to AAT requirements should be targeted to material treaties that are of specific concern to avoid these changes disincentivizing insurance companies from implementing appropriate reinsurance solutions. Targeting specific treaties should also minimize the creation of adverse effects on policyholders.

The following comments are based on the understanding that the additional analysis proposed in the Exposure, when viewed comprehensively alongside other pertinent analyses and data, will better inform the Appointed Actuary in support of forming their actuarial opinion and

[1] The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

determining the amount of any additional reserves they may recommend. Note that the Scope and Aggregation sections below have not changed since our October 3 letter but are included for completeness.

Scope

1. We assume that the impact of the proposal's scope would only cover whether a life insurer is subject to **any** new requirements introduced by Exposure, and not specifically what those requirements are, which is covered in other sections.
2. Regarding the options laid out in the Exposure, we recommend "Option 1: Narrow scope, some analysis expected for all treaties in the scope." We suggest that any new Actuarial Guideline requiring more detailed analysis than is already performed by the Appointed Actuary be a function of the specific risks of concern to the regulators. As noted in LATF's original goals on this topic, there is a desire to "prevent work by US ceding companies where there's immaterial risk,"[2] and therefore a narrow scope is appropriate.

   We also believe that a narrow scope has the following benefits:

   a. Provides added policyholder protection elements in instances in which there are specific risks of regulatory concern.
   b. Limits the burden on the industry by reducing non-value-added analysis / work being prepared for the regulator that is non-responsive to regulator needs.
   c. Minimizes review burden on the regulatory community.
   d. Excludes certain treaties / business that are clearly not the drivers of current regulatory concern (e.g., traditional YRT; immaterial reinsurance exposure to any single counterparty).
   e. Allows for a more timely implementation.
   f. Eases implementation efforts and allow for learning from the first set of submissions.

   In addition, there is already guidance for actuaries when performing actuarial services in connection with preparing, determining, analyzing, or reviewing financial reports for internal or external use that reflect reinsurance or similar risk transfer programs on life insurance, annuities, or health benefit plans (including disclosure requirements) contained in Actuarial Standard of Practice No. 11 *Treatment of Reinsurance or Similar Risk Transfer Programs Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports*.
3. We support the proposed exemption criteria as laid out in Section 2A. However, we have the following suggestions for improvement:

[2] From attachment 9 of the LATF Spring 2024 meeting materials

a. The size threshold refers to “reserve credit or funds withheld or modified coinsurance reserve.” As written, this could lead to double counting, as the reserve credit may already include the funds withheld. We suggest clarifying so that double-counting does not occur.
b. The treatment of business that includes separate accounts is unclear. We suggest clarifying that if the reinsured business includes separate accounts for which associated risks are assumed by the reinsurer, those separate account reserve credits would be considered in assessing the size threshold.
c. We suggest including reserves held in Exhibit 7, rather than only including Exhibit 5 reserves in the quantitative scope criteria.
d. For the quantitative exclusion criteria in Section 2A (1)-(4), we note that the reinsurance reserve reported in Schedule S, Part 3 may not reflect the actual reserve exposure of the reinsurance agreement—for example, when a business is subject to PBR and reserve credits are determined on an allocation basis. Therefore, it may not be appropriate for determining materiality. In such instances, it may be more appropriate to use a reserve calculated by the cedant as the difference between an aggregate reserve pre-reinsurance ceded and an aggregate reserve post reinsurance ceded

4. We also recommend considering the materiality of a group of treaties or counterparties when determining whether a life insurer is in scope. Doing so may help avoid a situation in which multiple immaterial treaties or counterparties have the same outcome as one material treaty or counterparty but would otherwise cause the life insurer to be exempt from the requirements solely due to individual treaty size.
5. We believe that a key concern raised by regulators relates to reinsurance treaties that result in the pursuit of more aggressive investment strategies and/or a significant reduction in the total asset requirement (reserves plus required capital). Based on this belief and given LATF’s stated objective to prevent work by U.S. ceding companies where there is immaterial risk, we believe it may be appropriate to exempt treaties where such conditions do not exist. For example, consideration for an exemption could be given to treaties that meet all of the following conditions: (1) no assets are transferred or assets transferred are segregated (for example, using modified coinsurance, a funds withheld, or having assets held in trust); (2) such assets are adequate (e.g., based on the latest standalone asset adequacy testing) to support the business on a stand-alone basis; and (3) have not been subject to subsequent changes (e.g., material deterioration in experience or material changes in the investment portfolio) that would bring into question the conclusions arrived at in (2).
6. We support the inclusion of older treaties with significant reinsurance collectability risk as outlined in Section 2.B.

Definitions

1. Regarding the definition of Attribution Analysis, we believe there are significant drivers of differences between the pre-reinsurance Statutory Reserve and the Total Reserve. Therefore, we suggest adding the following to the end of the definition, "due to factors such as differences in individual key assumptions, differences in methodologies, such as application of a reserve floor, or differences due to consideration of risk diversification across policies."

2. Regarding the definitions of Deficient Block and Sufficient Block, we suggest clarifying that "cash flow testing scenarios" refers to U.S. statutory cash flow testing at the initial inception date of the treaty, but could be on some other basis for subsequent valuation dates.

Risk Identification for Purposes of Establishing Analysis and Documentation Expectations

1. We generally agree that the higher the risk, the more rigorous and frequent the analysis should be. However, we also note that a less rigorous approach with more conservatism may also be appropriate. We also believe that degree of rigor and frequency should allow for judgment by the Appointed Actuary and should consider the practicality of performing the analysis. For example, it may not be feasible to perform cash flow testing very frequently.

2. We believe that the list of relevant risks is reasonable. The ultimate determination and evaluation of the relevant risks should be performed by the Appointed Actuary, as such determination considers the specific facts and circumstances of a given reinsurance arrangement.

3. We agree that risk mitigants, such as trusts or funds withheld, should be considered. Important considerations in the event of risk mitigants may include provisions related to the amount, nature, maintenance, and fungibility of the assets, as well as the extent to which the assets are set aside solely for claims on the ceded business.

4. We agree with consideration of reinsurance agreements that are both within and outside the U.S. In other words, guidance should be based on the risk profile, rather than the jurisdiction of the reinsurer.

Analysis and Documentation Expectations in Light of Risk

1. Regarding item A, we believe that the guidance in ASOP No. 22 is sufficient. It requires that the actuary consider using cash flow testing and allows application of judgment in the choice of which method to use. It also states that cash flow testing is generally appropriate where cash flows vary under different economic conditions.
2. We believe that if the cash flows associated with the reinsured business are not expected to materially vary under different economic scenarios, a requirement for cash flow testing may not be necessary. In those situations, for otherwise scoped-in reinsured business, we recommend an allowance for other forms of testing, such as stress testing.
3. We also note there may be practical challenges in performing cash flow testing if the Appointed Actuary does not have adequate information regarding the specific liabilities reinsured and/or the associated assets that can limit the usefulness of the analysis. For example, if cash flow testing is required in circumstances in which the Appointed Actuary does not have adequate information (e.g., a block where the cedant has exited that line of business, the liabilities are 100% reinsured, and the reinsurer or a TPA performs policy administration), they would need to utilize more judgment to make assumptions for use in cash flow testing. This, in turn, may indicate the need to include additional margin. Per ASOP No. 22, which states "When determining the level of assumption margins, if any, the actuary should take into account the following: a. the level of uncertainty for the assumption, including sparsity of data." The actuary would also need to follow ASOP No. 41, which requires disclosure of "any cautions about risk and uncertainty" as well as "any limitations or constraints on the use or applicability of the actuarial findings."
4. We also suggest considering the use of submissions to a non-U.S. regulator as an alternative documentation approach. For example, if the business is tested under a scenario analysis submitted to a non-U.S. regulator, that information may be sufficient for use in assessing reserve adequacy or, at a minimum, such information could be used to further narrow the need for any additional analysis to risks not already addressed.

Attribution Analysis

1. Attribution analysis may not be effective in ascertaining whether assets are adequate to cover policyholder obligations. Attribution analysis may be helpful in enhancing the understanding of the drivers of a reinsurance transaction and the components of the NAIC statutory framework that may contribute to a company's desire to use reinsurance. However, such analysis will take time and effort to perform and may not provide as much value as analyses to assess reserve adequacy (e.g., cash flow testing or stress testing). If regulators are interested in exploring drivers behind reserve levels pre- and post-reinsurance, the use of attribution analysis may be considered as part of a separate research initiative or field study, rather than implementing it as a mandatory submission

requirement.

2. We would also suggest that if attribution analysis is used in some form, accommodations be made to allow for reasonable approximations and judgment. Note that such analysis would not be used to directly compare different company results, given the dependence on the order in which the analysis is performed.
3. Finally, consistent with our comments on the definition of attribution analysis, we suggest adding a category for diversification methodology under "(b) Other reserve adjustments due to:".

Aggregation Considerations

1. ASOP No. 22 currently provides guidance to Appointed Actuaries (AAs) applying judgment as to when blocks of business may be aggregated for purposes of testing the adequacy of assets supporting booked reserves.

   If LATF chooses to provide additional guidance on aggregation in an Actuarial Guideline, to the extent possible we recommend aligning it with existing guidance in section 3.1.4 of ASOP No. 22, i.e., "the actuary may aggregate reserves … for multiple blocks of business if the assets or cash flows from the blocks are available to support the reserves. … [T]he actuary should not use assets or cash flows from one block of business to discharge the reserves and other liabilities of another block of business if those assets or cash flows cannot be used for that purpose."
2. Regarding item B of the Exposure, we would support new requirements that include disclosure by the Appointed Actuary of the rationale for aggregation.
3. Regarding item C of the Exposure, which comments on reliability and stability of a sufficient block that is "subsidizing" a deficient one, we believe it would be appropriate to follow the guidance in ASOP No. 22, which states: "When considering aggregation of results to offset deficiencies, the actuary should take into account the type and timing of cash flows, the related cash flow risks, and the comparability of elements of the analysis such as analysis methods, scenarios, discount rates, and sensitivity of assumptions" (section 3.2.4). For example, if a sufficient block has very "back ended" cash flows that are available to support a deficient block on a present value basis, we believe the Appointed Actuary should take into account whether those back ended cash flows can actually support the earlier cash shortfalls for the deficient block. In addition, ASOP No. 7, *Analysis of Life, Health, or Property/Casualty Insurer Cash Flows*, states, "The actuary should consider the impact of any negative interim earnings during the cash flow projection period, if it is appropriate for the purpose of the analysis" (section 3.11). As occurs today, we believe that evaluation of interim surplus results is an important

consideration in assessing adequacy. If there are future interim shortfalls on an aggregate book value basis under moderately adverse conditions, the Appointed Actuary would evaluate whether additional reserves might be needed to address the shortfall.

Documentation

We suggest removing from item A the requirement to present the New York 7 results, and instead leaving the appropriate scenarios to disclose based on the risk profile of the business to the judgment of the actuary. Otherwise, the documentation requirements laid out in the Exposure appear reasonable.

*****

If you have any questions or would like to discuss these comments further, please contact Amanda Barry-Moilanen, the Academy's life policy analyst.

Sincerely,

Vice President, Life
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October 3, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Fred Andersen,
Minnesota Department of Commerce

Re: AAT for Reinsurance Actuarial Guideline Draft – Scope and Aggregation

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the recently exposed Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline Draft (Guideline/draft AG) that was exposed by LATF shortly after the NAIC 2024 Summer National Meeting in Chicago, Illinois. We would also like to take this time to express our sincere gratitude to LATF members and staff for the extensive amount of work and discussion that has taken place so far this year as a part of this effort.

Industry remains committed to helping regulators address the concerns articulated during LATF meetings. We appreciate that LATF and the regulatory community are working hard to balance the importance of reinsurance as an effective risk-mitigation tool with maintaining policyholder protection and enabling consumer access to essential life insurance and retirement solutions. Additionally, we appreciate the engagement of LATF, its parent A Committee, the impacted E Committee, and NAIC Commissioners at large as we continue this important dialogue and come to a shared understanding of the concerns and mitigants in place.

The American Council of Life Insurers 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 275 member companies represent 93 percent of industry assets in the United States.
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Our comments are provided with an understanding that the results of the analysis required by this Guideline would not be binding but would instead give the Appointed Actuary, domestic regulator, and interested regulators greater transparency into the risks associated with the reinsurance counterparties and inform Appointed Actuaries' assessment of reinsurance counterparties.

ACLI would also like to emphasize the interconnected nature of all sections of the Guideline and the need for this to be an iterative process. As the Guideline development progresses, our views on individual sections may evolve based on developments in other areas of the conversation.

The following describes our position with respect to Scope (Section 2) and Aggregation (Section 7). ACLI believes the Guideline should provide greater transparency regarding reserve adequacy associated with material asset intensive reinsurance transactions and be targeted to address the potential risks in the transactions of specific concern to regulators.

Scope

We suggest refining the Scope by creating an affirmative definition of asset intensive reinsurance transactions. Specifically, Asset Intensive Reinsurance Transactions ("AIRT") are coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk. The matrix included in Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation identifies the following life products with significant, inherent investment risk:

- Universal Life Fixed Premium
- Universal Life Flexible Premium
- Indeterminate Premium Permanent Life
- Adjustable Premium Permanent Life
- Traditional Participating Permanent Life
- Traditional Non-participating Permanent Life
- Single Premium Whole Life
- Other Annuity Deposit Business
- Guaranteed Interest Contracts
- Flexible Premium Deferred Annuities
- Single Premium Deferred Annuities[1]
- Immediate Annuities[1]

For avoidance of doubt, yearly renewable term (YRT)[2] reinsurance, retrocession transactions with underlying YRT business, and nonproportional reinsurance such as stop loss or catastrophe reinsurance are not considered asset intensive reinsurance transactions and would not be considered within the scope of the Actuarial Guideline.

Given the regulator concerns around the level of reserve reduction and lack of transparency in the assets and asset assumptions supporting certain transactions, we would appreciate a broader discussion at the Fall National Meeting related to situations where assets are being held at appropriate levels (such as at the US statutory reserve) and with transparency into those assets and their assumptions. For example, we recommend removing modified coinsurance where fully

[1] ACLI views Pension Risk Transfer as included within Immediate Annuities and Deferred Annuities

[2] Yearly renewable term transactions as defined by *SSAP 61R – Life, Deposit-Type and Accident and Health Reinsurance* only transfer mortality/morbidity risk for a premium that varies each year with the amount of risk and age of insureds. This form of reinsurance does not transfer permanent plan reserves and thus should be considered out of scope for asset intensive reinsurance.

admissible assets equal to the full US statutory reserve are held on the cedant's balance sheet, given the level and transparency into the assets held. Additional reinsurance arrangements would have similar logic, so we would like to better understand regulator concerns around such structures. At a minimum, the structures should be considered as part of the assessment of risk and the mitigants available to address those risks.

In addition to excluding counterparties that are VM-30 filers from scope, we also recommend excluding counterparties that can demonstrate "VM-30 equivalence" in the reporting to their domestic regulator. This concept would need to be a defined term in the Guideline, and we would like to work with regulators to establish what information would need to be disclosed to achieve this equivalence.

Proposed language for these changes can be found in Appendix A.

Further, we suggest a greater emphasis on the relationship between scope and level and degree of rigor of any subsequent analysis. This could include the consideration of whether reinsurance transactions have been subject to regulatory approval (by cedant and/or assuming entity regulator), the company's existing stress testing, ongoing experience monitoring, supporting collateral balances, recapture analysis, and other similar analyses in lieu of further testing. We will provide additional considerations in our next letter.

Aggregation

Aggregation is a critical component in AAT, and that principle should carry over in this Guideline. For cash flow testing or an alternative analysis, the Appointed Actuary should be allowed to aggregate all treaties within a counterparty at their discretion, including treaties that are not otherwise in scope (such as those before the cutoff date). Aggregation should be consistent with Section 3.1.4 of ASOP 22 (allowance of aggregation of ". . . reserves and other liabilities for multiple blocks of business if the assets or cash flows from the blocks are available to support the reserves and other liabilities of the aggregated blocks of business"). Further, given our understanding that this is intended as a disclosure requirement, we do not believe that definitions for "Deficient Block" or "Sufficient Block" are necessary, and we would recommend striking them.

While these are our initial thoughts, ACLI has been discussing a framework for how the scope could be correlated with rigor, and we look forward to working with regulators and NAIC staff on this aspect. Additionally, we are continuing to evaluate alternative solutions that could address regulator concerns related to the amount of reserves and types of assets supporting life insurance business that relies substantially on asset returns.

As we understand this to be an iterative drafting and revising process, ACLI would again like to thank you for the opportunity to provide this feedback and we look forward to continued conversations with regulators as we begin to finalize Scope, Aggregation, and the other remaining issues that must be addressed prior to implementation.

Much appreciated,

cc: Scott O'Neal, NAIC

Appendix A - Proposed Edits to Draft Actuarial Guideline:

[Replace Section 2 Scope with the following]

2. Scope

This Guideline shall apply to all life insurers with:

A. Asset Intensive Reinsurance Transactions that:
   (i) Are ceded to entities that have <u>not</u> submitted a VM-30 memorandum or VM-30 Equivalent Report to their domestic regulator in transactions established 1/1/[YEAR][3] or later; AND
   (ii) is <u>not</u> fully secured by collateral qualified under the NAIC Model Regulation on Credit for Reinsurance; AND
   (iii) Meet any of the criteria determined by counterparty in subsections (1) through (4) below:
      (1) Combined reserve credit[4] in excess of $5 billion
      (2) Combined reserve credit[3] in excess of:
         a) $1 billion, and
         b) 2% of ceding company gross reserves[5]
      (3) Combined reserve credit[3] in excess of:
         a) $100 million, and
         b) 10% of ceding company gross reserves[4]
      (4) Combined reserve credit[3] in excess of:
         a) $10 million, and
         b) 20% of ceding company gross reserves[4]

[New Section 3.A Definition with existing definitions relabeled]

Asset Intensive Reinsurance Transactions ("AIRT") - Coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk as determined by Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation.

[Remove Section 3.B "Deficient Block" and 3.F "Sufficient Block" with existing definitions relabeled]

[Replace Section 7 Aggregation Considerations with the following]

7. Aggregation Considerations

A. When performing quantitative analysis with respect to this Guideline, the Appointed Actuary may aggregate all treaties within a counterparty at their discretion and consistent with Section 3.1.4 of ASOP 22, including treaties that are not otherwise in scope (such as those established before 1/1/[YEAR]).

[3] ACLI recommends prospective application of the requirements

[4] Reserve credit determined based upon the statutory annual statement filed by the ceding company for the prior year. Including funds withheld and reserve credit would be double counting certain amounts on funds withheld treaties

[5] Gross reserves include separate accounts where the life insurance company retains investment risk plus Exhibit 5 gross life insurance and gross annuity reserves

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October 11, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)
Fred Andersen,
Minnesota Department of Commerce

Re: AAT for Reinsurance Actuarial Guideline Draft – Remaining Sections beyond Scope and Aggregation

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide additional feedback on the recently exposed Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline Draft (Guideline) that was exposed by LATF shortly after the NAIC 2024 Summer National Meeting in Chicago, Illinois.

This letter should be viewed in conjunction with our comment letter dated October 3 that focused on Scope (Section 2) and Aggregation (Section 7). The following describes our position with respect to the remaining sections beyond Scope and Aggregation consistent with that prior letter. As noted in our previous comment letter, the interconnected nature of the sections requires appropriate alignment of scope, assessment of risks, and degree of analysis, and our remarks are based on our current understanding of regulator concerns and in line with our view on scope.

As stated in our prior letter, our comments are provided with an understanding that the results of the analysis required by this Guideline would not be binding but would instead give the Appointed Actuary, domestic regulator, and interested regulators greater transparency into the risks

The American Council of Life Insurers 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 275 member companies represent 93 percent of industry assets in the United States.
acli.com

associated with the reinsurance counterparties and inform Appointed Actuaries' assessment of reinsurance counterparties.

While we are providing specific commentary on some of the text in the draft Guideline, we wish to focus on 3 "big picture" topics to help guide the next discussion.

Topic 1: Availability and Applicability of Data

Consistent with prior written and verbal comments, we are concerned about the availability and applicability of data for existing treaties that the current draft Guideline assumes is available. Specifically, the Guideline seems to require insight into the assuming company's reserves, assets, and assumptions that might not always be available to the cedant. While there are cases in which this data would be more readily available, it is not clear that it is available in all instances.

While some aspects of this information may be available on a prospective basis at some future date, the question remains regarding the appropriateness of the data. The assumptions developed by the assuming company in many instances do not solely rely on the cedant's information. Further, given the proprietary nature of many of these assumptions, providing this information can lead to competitive issues.

We note that regulators may have other avenues to gather assumption data. For example, in our proposed "VM-30 Equivalence", US regulators could identify the information on data and assumptions they believe is necessary for their analysis while maintaining the confidentiality of such proprietary data. For affiliate transactions, Supervisory Colleges can provide a forum for the types of information sharing that may be beneficial to US regulators; for example, the cedant's domestic regulator and BMA or CIMA will be at the table for an international company with entities domiciled in those jurisdictions.

This assumption on availability of data significantly impacts both the attribution analysis and cash flow testing capacities of the cedant, and concepts behind the definitions (Section 3) of "Total Reserve", "Reserve Decrease", and "Attribution Analysis".

Topic 2: Attribution Analysis (Section 6)

The limitations on availability of data impacts the ability of the cedant to perform Attribution Analysis when deemed appropriate by the Appointed Actuary. Notably, lacking reserve balances and asset and liability assumptions from the assuming company may make attribution of adjustments from Pre-reinsurance Reserve to Total Reserve unfeasible for existing reinsurance transactions.

Consistent with our comments on the July 25, 2024, LATF call, we believe this effort would be better served by allowing the cedant to attribute to their own "best estimate". This approach would be similar to the Impact of Margins analysis in VM-31 Section 3.D.11 for life insurance and Section 3.F.13.d for variable annuities, with further adjustments made for differences in statutory bases between the jurisdictions. We provided a version of a template (also included with this submission) that reflects this approach. Further, as companies may already have their own internal analysis on attribution, other formats besides the general template should be acceptable for submission.

We note that even with an approach linked to cedant best estimate, there may still be situations where such attribution would be challenging for companies. We request that a company be able, but not required, to provide an analysis with a higher degree of rigor than attribution analysis.

Topic 3: Cash Flow Testing

Companies have had concerns regarding the proposed cash flow testing since the initial discussions of the proposal. Our understanding is that regulators would like to have the cedant perform cash flow testing using information (including asset mix, asset assumptions, liability policy behavior assumptions, etc.) from the assuming entity. In many instances, the assuming entity would consider such data to be proprietary and generally not made available to the cedant. Further, we have concerns for transactions such as business divested through reinsurance transactions that the Appointed Actuary for a cedant may need to use assumptions that purely rely on the assuming entity, or worse, use assumptions that may not align with the experience of the business within the reinsurance transaction. We are concerned this undermines the value of the Appointed Actuary's work and does not seem to provide a value-add to them or their regulator reviewing this information.

We think that, given these concerns, to the extent that the Appointed Actuary determines cash flow testing is appropriate (given the risks associated with the transaction considered against the mitigants and other "offsets" in place), significant flexibility should be provided. For example, the Appointed Actuary might consider recapture analysis (either using cash flow testing or other techniques) as the best way to assess the transactions. Further, we believe the Appointed Actuary should always be able to consider other transactions with the same counterparty in their analysis (also addressed in our previous comments on Aggregation). Finally, mitigants (such as collateral), reinsurance transaction regulatory approval, and company evaluation (including stress testing and recapture analysis should all be considered relative to the assessed risks inherent in transactions. We are hopeful that the Minnesota inquiry will help provide greater insight to regulators on the types of mitigants and evaluations that are in place, and we are hopeful additional documentation will be beneficial to inform regulators about the risks, mitigants, and monitoring associated with transactions.

Specific Feedback on Remaining Sections:

Definitions (Section 3)
Consistent with our previous comments regarding Scope (Section 2), we suggest adding a definition of "Asset Intensive Reinsurance Transactions". Additionally, as discussed in our previous comment letter, the definitions of Deficient and Sufficient Blocks are not necessary given our understanding of the intention of the Actuarial Guideline as a disclosure requirement.

We suggest removing the references to Primary Security given this is a more stringent standard than the NAIC Model Regulation on Credit for Reinsurance.

Depending on available information, it may be appropriate to reference Reserve Credit rather than Reserve Decrease, since ceding companies know the reserve credit taken but not necessarily the reserve held by reinsurers. Given the reference to reserve credit in Scope, we would suggest including a definition for "Reserve Credit" such as the one footnoted in our previous comment letter.

Per our comments above, the definition of "Total Reserve" and "Attribution Analysis" would need to be reconsidered if applied to existing transactions given the lack of information available for some.

Risk Identification for Purposes of Establishing Analysis and Documentation Expectations (Section 4)

The draft Guideline's general guidance states that the rigor and frequency of the analysis and documentation to be performed by a cedant's Appointed Actuary should be in line with the specific reinsurance transaction's level of risk. As stated in our letter on Scope and Aggregation, ACLI fully

supports this kind of correlation as it relates to the level of rigor found in the analysis. Regarding frequency, however, we suggest a different approach. For previously assessed transactions where regulators deem the cedant's initial assessment and analysis to be sufficient, companies should instead be allowed to engage in monitoring to avoid duplicative efforts that are not administratively and financially feasible to perform and do not result in any new insights for regulators.

Section 4 brings in the concept of considering whether an assuming company provides a VM-30 Actuarial Memorandum to U.S. regulators. Consistent with our suggestion in our proposed Scope that VM-30 filers be exempt from the requirements in any future Guideline, we would suggest also considering whether a company provides a "VM-30 Equivalent" type of document for transactions with assuming companies who are not VM-30 filers, particularly with respect to qualifying reciprocal jurisdictions. Such reporting, like that which is provided to jurisdictions like the Bermuda Monetary Authority, could contain much of the same information as a VM-30 report that is helpful to regulators and should be viewed with equivalent levels of deference.

Analysis and Documentation Expectations in Light of Risks (Section 5)

ACLI believes that the more effort-intensive analysis requirements of the Guideline should be targeted, as this will allow regulators to focus on their primary concern of preventing damaging insolvencies. Scoping in immaterial treaties will simply create additional, unnecessary, low value work without substantial benefit and distract focus from more material treaties. As mentioned previously, transaction riskiness should be assessed by the Appointed Actuary after considering all information available related to risks, mitigants, and other considerations. In this scenario, the more inherent risk found in a reinsurance transaction being analyzed, a company would have to perform increasingly rigorous analysis as they move along the risk spectrum, starting with no additional disclosures beyond what is required in AG 53 and ASOP 11, increased Appointed Actuary reporting and documentation, attribution analysis (or an alternative comparable analysis), and cash flow testing (or an alternative analysis).

An important note that we will add is that for some companies, cash flow testing may be easier to perform than something like attribution analysis, so we are also proposing that companies be allowed to choose the type of analysis they want to perform, provided that it meets the necessary degree of rigor.

Section 5 also states that some aggregation may be allowed between treaties for a single counterparty subject to the considerations in Section 7. Given that aggregation has been considered for Scope, we would suggest that the same level of aggregation apply throughout the Guideline when evaluating rigor and applying whatever analysis is required by the corresponding level of riskiness. We note that this view of aggregation is consistent with AG 53 and broader applicability of Asset Adequacy Analysis.

Similarly, 5.D. notes that the domestic commissioner continues to have the option to require CFT for individual treaties or counterparties, as they may deem necessary to understand and evaluate risk. While we acknowledge it is the domestic regulator's prerogative to have additional requirements, it is imperative that regulators work towards a consensus on the objectives and anticipated future steps of this effort to reduce the potential for conflicting requirements between states.

More potentially troubling language is present where the Guideline mentions "Where information on cash flows or any aspect of the analysis is not available, the Appointed Actuary may use simplifications, approximations, and modeling efficiency techniques if the Appointed Actuary can demonstrate that the use of such techniques does not make the analysis results more favorable." ACLI believes this is VM language that doesn't seem to fit with the remainder of the Guideline and

raises a number of questions (If Appointed Actuaries don't know something, how do they make sure the approximations are not more favorable? More favorable than what? And, since we cannot demonstrate that, what is the remedy to lack of information?). With this in mind, we instead propose language suggesting that any such simplification be documented with respect to potential impact to the analysis.

Editorially, since there is a separate section of the exposure (Section 8) dedicated to this topic, ACLI would also like to suggest that the title of the Section be changed to "Analysis in Light of Risks".

Documentation (Section 8)

A key statement within the current Section 8 is that if cashflow testing is performed, ceding companies should present results and key assumptions from their New York 7 (NY7) work, along with other results the company selects to disclose. ACLI believes pointing to such a specific regulatory requirement is inappropriate in this context, as not all companies run the NY7, nor is it a requirement. Results of these scenarios may not produce meaningful results, for example if a company has significant equity or foreign currency exposure. New York has also modified their scenario definitions, leaving this long-understood term now to be a bit more ambiguous. We suggest striking references to NY7 from the Guideline.

We believe that the documentation required for the Guideline should reflect, to the extent transactions are in scope, the risks, mitigants, and evaluations reviewed in the Appointed Actuary's assessment of rigor, plus any documentation, attribution analysis, and results of any cash flow testing analysis where appropriate.

We appreciate the opportunity to submit these comments and look forward to engaging with LATF as this effort continues.

Much appreciated,

cc: Scott O'Neal, NAIC

ACLI Draft AAT for Reinsurance Attribution Template

https://content.naic.org/sites/default/files/call_materials/Reins AAT Attribution Concept - ACLI Draft - 071724_0.xlsx

October 11, 2024

Via Electronic Mail to: soneal@naic.org

Cassie Brown, Chair
Life Actuarial (A) Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500 Kansas City, MO
64106-2197

RE: AAT for Reinsurance Guideline Draft

The Bermuda International Long Term Insurers and Reinsurers ("**BILTIR**") thanks the task force for the opportunity to comment on the exposed AAT for Reinsurance Guideline Draft.[1] BILTIR's mission is to support the long-term insurance and reinsurance industry's growth and success in Bermuda and globally, and in doing so is committed to engaging with the NAIC and state regulators regarding reinsurance reserves standards of relevance for the global reinsurance market. Because the draft guideline is focused on life sector reinsurance, we submit that BILTIR's ongoing input will be valuable to assessing and developing approaches to ensure they do not restrict the ability of reinsurance to support the availability of retirement products to U.S. consumers.

Bermuda's Regulatory Regime and Solvency Protections

Underpinned by a well-capitalized industry, decades of reliably supporting the general insurance markets, and the robust regulations developed by the Bermuda Monetary Authority ("**BMA**") that further strengthen policyholder protections, Bermuda is emerging as a model for other jurisdictions and is a positive force in helping address the retirement protection gap which numbers in the trillions worldwide.

Bermuda provides a stable regulatory climate while encouraging innovation and investment. Beginning in 2013, the BMA introduced comprehensive regulations for the long-term sector that resulted in Bermuda being awarded equivalence under the European Solvency II regime. The NAIC also recognizes Bermuda as both a Qualified Jurisdiction and Reciprocal Jurisdiction, a recognition that is revisited annually and that includes all sectors. Bermuda's regulations feature a comprehensive model risk framework with a risk-based supervisory approach, and

[1] BILTIR represents the long-term insurers and reinsurers in Bermuda. Backed by Bermuda's over 40-year history of providing insurance solutions at the forefront of the evolving long-term insurance industry, BILTIR represents the policy interests and drives advocacy for the market and its members. BILTIR membership is comprised of more than 70 annuity, life insurance, and reinsurance businesses and servicing companies on the island. More information about BILTIR is available at https://www.biltir.com.

were updated in 2023. To date, public indications are that the update has been well received by U.S. regulators who are re-assessing Bermuda's Qualified and Reciprocal Jurisdiction status pursuant to the NAIC's annual process. That re-assessment provides a forum to comprehensively review the regulatory regime, rather than conduct piecemeal inquiries into aspects of it.

The assets backing Bermuda-based liabilities underscore the strength of that regime. Based on a recent survey of BILTIR membership,[2] 92% of assets under management held by BILTIR's membership are rated investment-grade, and overall assets held exceed liabilities by $231 billion. 77% of those assets have additional protection in the form of secured trusts, fund with-held or modified coinsurance, and 95% of bonds, debentures and structured assets held by membership are investment grade. Those assets meaningfully exceed liabilities, with the median solvency ratio for the long-term sector in Bermuda as of year-end 2022 at 261%, which is well in excess of required capital levels.[3]

The Bermuda Regulatory Framework Addresses the Task Force Goals

The Bermuda regulatory framework already addresses what appear to be the core goals of the task force.

BMA and State Regulator Collaborative Approval: Beginning in 2023 the BMA began a practice of reviewing reinsurance transactions in which a Bermuda domestic insurer assumes in force business (in some cases a Bermuda domestic insurer assumes in force business from insurers domiciled outside of Bermuda, some of which business is asset-intensive). As a part of these reviews the BMA is consulting with the ceding insurer's domestic regulator, and in some cases the ceding insurer's group supervisor, prior to approving the proposed reinsurance transaction. Similarly, as to reinsurance involving a U.S. domiciled insurer and its affiliate, individual transactions exceeding the size threshold identified in the state's holding company regulations are submitted to the ceding insurer's state of domicile for prior approval. As a result, these transactions between a U.S. domestic insurer and a Bermuda reinsurer are already scrutinized and regulated, and the regulation is normally customized to fit the nature, size and impact of the transaction on the financial condition of the U.S. domestic ceding company. Likewise, under the U.S. state holding company regulations, the U.S. regulators already have the ability to require cash-flow testing on reinsured business where deemed necessary.

Strength of Bermuda's Liability Methodology:

The U.S. and Bermuda regulatory frameworks in different ways apply prudence to achieve the outcome of consumer protection. In Bermuda, insurance reserves (called "technical provisions") are valued on an economic basis. There are notable similarities as well as some important differences from U.S. statutory reserves. In Bermuda, reserves/technical provisions are the sum of two components: a best estimate liability ("BEL") and a risk margin.

[2] BILTIR's survey sample of 55 companies drew from 94% of the total BILTIR members, representing invested assets of $800 billion, as reported for the 2022 financial period (which excludes non-Bermuda assets of Bermuda consolidated groups). Total assets held by Bermuda-based long-term (re)insurers, which includes intangibles and other non-invested assets, totaled more than $1 trillion at YE22.

[3] Note that there is no substantial difference between what investments would be non-admitted and therefore not count for solvency purposes in the U.S. and Bermuda.

The BEL is a discounted, current, probability-weighted average of projected future cash flows, using updated assumptions. Discounting uses either a standard approach or the scenario-based approach ("SBA"). The standard discounting approach uses current risk-free rates plus BMA-prescribed illiquidity spreads. Accordingly, all contracts valued under the standard method use the same discount rates as of a particular valuation date.

In contrast to the standard approach, the SBA uses the illiquidity premium that is embedded in the insurer's actual portfolio of assets used to support the block of business.[4] Distinct from traditional risk assessment methods that often rely on historical data, the SBA emphasizes forward-looking analysis, allowing companies to model diverse scenarios, like economic shifts, regulatory changes, and catastrophic events. This ensures that insurers and reinsurers are resilient to risks associated with asset-liability mismatches, for which there is an explicit cost. By focusing on matching cash flows of assets and liabilities, the SBA enforces a rigorous asset-liability management discipline within insurers, ensuring that reinvestment assets must align with the insurer's existing and board-approved ALM and investment policies. In doing so, the SBA not only enhances the visibility of insurers' risk management practices, but it ensures that the resulting resilience to risk is achieved in a sustainable manner.

The BMA has placed guardrails around the use and application of the SBA, including new guardrails that were added in 2023. For example, (re-)insurers must demonstrate a high degree of cash-flow matching, and recent reforms have introduced a prior approval process. Cash-flow matching is further incentivized by the requirement to value liabilities using the market value of assets that produces zero surplus at the end of the projection under the worst of eight prescribed economic scenarios, an approach that resembles the U.S. standards for principle-based reserving and cash flow testing.

The BMA also limits the types of assets that can be used within the SBA. For example, the BMA requires that nearly all SBA assets have a fixed maturity date. The BMA further prescribes most asset default and downgrade costs, which are subtracted to derive the implicit illiquidity premium. Reinvestment assumptions must be consistent with the insurer's existing asset portfolio, and no "unsellable" (highly illiquid) assets may be assumed to be sold to meet cashflow shortfalls throughout the entirety of the projection.

The BMA also has liquidity risk management, stress testing, governance, model risk management, and documentation provisions that are tailored to users of the SBA.

The risk margin, which is added to the best-estimate liability, is intended to reflect the compensation required by risk-averse capital providers to bear the uncertainty inherent in the insurance liabilities. The BMA requires insurers to calculate the risk margin using the cost-of-capital method, using a 6% cost of capital rate. The BMA's approach is consistent with international frameworks such as the European Solvency II regime and IFRS reporting. We believe it is essential for the task force to consider framework differences, both conceptual and technical, before concluding that U.S.-style asset adequacy testing is appropriate to assess liabilities that are reinsured to Bermuda. We also encourage consideration of the total level of financial resources (including both reserves/technical provisions and capital) that reinsurers hold to satisfy their obligations to cedents.

[4] For insurers, a primary appeal of the SBA is that it limits the financial volatility that is often characteristic of long-term insurance businesses under market-based accounting and solvency regimes.

Governance for Actuarial Assumptions: The BMA prescribes stringent standards for actuarial projections. All long term (re)insurers must appoint an Actuary, being an actuarially skilled individual, for the purposes of opining upon their technical provisions. This appointment is subject to approval by the Authority. Each Actuary approval is specific to the subject insurer's application, is uniquely determined and is contingent upon the nature, scale and complexity of the insurer's business and the Actuary candidate's suitability to serve as an appointed Actuary for that insurer based upon fit and proper criteria. Fit and proper criteria includes whether, commensurate with the nature, scale and complexity of the insurer's business and the requirements and standards of the Act, the person possesses the appropriate integrity, competency, resources, qualifications and experience including being appropriately conversant with the Authority's established EBS valuation requirements and guidance material. Included in the approval process is the applicant company confirming that the appointed Actuary shall have the ability to communicate directly with the board without the need for management review or approval; and that the board shall have direct access to the Actuary. The Actuary's estimate of technical provisions and any other matters specified by the Authority are expected to be prepared in accordance with accepted actuarial practice and all applicable standards of practice of their credentialing actuarial body and the Authority's established requirements.

Collateral: Many reinsurance transactions are structured to provide collateral to mitigate credit and other counterparty risks even where not required for credit for reinsurance purposes. The level of collateral provided may, in certain cases, even exceed reinsurer or cedent reserve requirements which may be driven, in part, by whether reserves and assets are measured on a book or market value basis. Such collateral, whether it constitutes assets backing reserves or surplus, are available to support the obligations for the reinsurance liability and, for assets pledged to U.S. cedents would generally be comprised of assets meeting the definition of "admitted assets" in the relevant domiciliary jurisdiction of the cedent.

The Task Force Should Revisit the Guideline's Approach

We appreciate that the task force will be assessing the draft guideline in stages in order to focus on certain component parts. BILTIR will engage in those discussions. However, we want to state clearly our broader, more fundamental observations early in the process, both in the interest of transparency to the task force and to provide context for our more specific comments. We have several concerns about the guideline's approach to addressing asset adequacy.

The Proposal is Narrowly and Improperly Focused on Reserve Levels. What matters to consumers and to the financial system is collectability of reinsurance, rather than a narrow focus on level of reserves. This collectability is supported by both reserves as well as capital held in the system, whether that capital is held in trust or elsewhere.

Likewise, the focus on reserves depends upon an inaccurate characterization of reserve assumptions. Not every jurisdiction's valuation regime uses assumed returns on a company's own assets, and Bermuda is a case in point. As discussed above, some business is valued using the SBA, which employs discounting using own asset returns (with various adjustments), while non-SBA business is valued using risk-free rates plus an illiquidity premium.

Adopting a Disclosure-based Approach: A disclosure-based approach would increase transparency to meet regulator needs, but without disrupting the reinsurance market. Such a

disclosure-based approach would still enable regulators to identify one-off transactions that are overly risky or premised on aggressive asset return assumptions.

We thank the task force for considering our perspective and look forward to continued input and serving as a resource as the task force moves ahead. We are happy to address any questions you may have, and to offer further input as discussions continue.

Sincerely,

Suzanne Williams-Charles
BILTIR Executive Director

October 3, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Dear Chair Hemphill:

Thank you for the opportunity to provide comments on the Life Actuarial (A) Task Force (LATF) AAT for Reinsurance Actuarial Guideline Draft exposure. I write as a representative of the Cayman International Reinsurance Companies Association (CIRCA). Founded in October 2020, CIRCA is now made up of over 60 members. The association is dedicated to promoting collaboration, advocating for regulatory excellence, and driving educational initiatives in the Cayman Islands' reinsurance sector. I have taken the liberty of including an Appendix to this letter that provides information about the Cayman Islands Monetary Authority (CIMA) which we feel is helpful additional context when reviewing our feedback.

CIRCA has been closely following the discussions occurring at LATF regarding asset adequacy testing for reinsurance and the development of the current exposure. After review from our members and ongoing discussions with interested parties, CIRCA has developed initial feedback below for the requested initial exposure, Section 2, Scope and Sections 5.C and 7, Aggregation.

<u>Section 2, Scope</u>

According to the exposure, LATF is contemplating applying either a narrow or broad scope to the Actuarial Guideline. CIRCA encourages LATF to adopt a narrow scope, as outlined in Option 1. Also, our members suggest including a provision that would allow for entities that provide disclosures comparable to VM-30 to their regulator be out of scope for the Actuarial Guideline. Specifically, if an assuming reinsurer provides to their regulator a technical document which is consistent with the methodology, nature, and overall purpose of the VM-30 Actuarial Opinion and Memorandum Requirements, then the reinsurance ceded to that reinsurer should be excluded from the scope of this Actuarial Guideline proposal.

As currently drafted, the Actuarial Guideline exposure appears to focus on situations where the reserves set by the assuming reinsurer are materially lower than the U.S. Statutory Reserve ceded by the ceding company. CIRCA contends that what matters to the ceding company is the level of contractually obligated assets they have unfettered access to in order to satisfy the ceded policyholder obligations. Therefore, CIRCA recommends that the Actuarial Guideline exclude from its scope transactions where the contractually obligated assets supporting the ceded risk are no less than the ceded U.S. Statutory Reserve. This would include Modified Coinsurance or Coinsurance Funds Withheld where those assets remain in the ceding company's possession and on their balance sheet or Coinsurance supported by a reserve credit trust compliant with NAIC Model 785.

If such transactions are not fully excluded, we recommend that the focus of analysis of the transaction by the Appointed Actuary be on the committed asset level, reflecting any overcollateralization contractually provided by the reinsurer, available to the ceding company

and not the stated reserve for the risk held by the reinsurer assuming another accounting basis. If the contractually required collateral is used in place of that stated reinsurer reserve in the provided Attribution Analysis spreadsheet, the result would be a total volume of supporting assets greater than or equal to the reserve which CIRCA believes would result in the transaction posing a low risk.

Sections 5.C and 7, Aggregation

CIRCA members believe that any aggregation requirements set out in the Actuarial Guideline exposure should be consistent with those applicable to the aggregation requirements outlined in VM-30 and relevant actuarial guidance. LATF should apply consistent aggregation requirements for their disclosures, regardless of whether the reinsurance transaction is ceded to a domestic or offshore reinsurer.

The testing should include all contractual resources for a transaction, including the reserves held by the reinsurer, coinsurance funds withheld, comfort trusts and any other form of NAIC Model 785 compliant contractual support. Ceding companies often negotiate overcollateralization as an additional layer of protection so CIRCA would also recommend assets supporting the overcollateralization to be available in any AAT analysis of the ceded business.

Other Comments

Also, both Primary Securities and Other Securities as described in AG 48 (4D and 4E, respectively) should be included as "Acceptable Assets" in support of policyholder obligations, consistent with permissible investments in the relevant regulator's state. For reference, in AG 48 Section 4E, Other Securities are defined to be: "Any asset, including any asset meeting the definition of Primary Security, acceptable to the Commissioner of the ceding insurer's domiciliary state." On this point, CIRCA would like to highlight that ceding companies negotiate investment guidelines with the reinsurer as a protection to meet their policyholder obligations. Assets held on the ceding company's balance sheet under Modified Coinsurance or Funds Withheld will be such that the company is compliant in total under the domiciliary state's investment limitations. Reserve credit trusts supporting Coinsurance transactions are even more restrictive, limiting the assets in the trust to SVO-rated, cash or cash equivalents, letters of credit from a qualified institution, or other assets as specifically authorized by the ceding company's domiciliary commissioner. All assets supporting the ceded business are held in the U.S.

As stated above, CIRCA appreciates the opportunity to provide comments to LATF and thanks you for your consideration. We welcome any opportunity to discuss these and any other points further as the Task Force deems appropriate.

Sincerely,

David C. Self

Chair of Board of Directors
Cayman International Reinsurance Companies Association.

Appendix – The Cayman Islands Monetary Authority

The Cayman Islands Monetary Authority (CIMA) is the primary regulator and supervisor of the financial services industry in the Cayman Islands. In its supervisory role, CIMA is responsible for monitoring the activities of its domestic and international licenses through integrated risk-based supervisory approach of onsite and offsite supervision. CIMA has a long history of international cooperation and leadership in international regulatory policymaking and standard setting. CIMA is a founding member of the International Association of Insurance Supervisors (IAIS), and member of its Reinsurance task force responsible for the creation of the international reinsurance regulatory standards (ICP 13). CIMA has been a member of the International Organization of Securities Commissions (IOSCO) since 2009 and participates in international initiatives with the NAIC, Organization for Economic Cooperation and Development (OECD), Financial Action Task Force (FATF) and International Monetary Fund (IMF).

The provision of assistance to overseas regulatory authorities is one of CIMA's principal functions. Such international cooperation takes place primarily through the exchange of information, facilitated through Memorandums of Understanding ("MOUs"), other agreements and through CIMA's active participation in international forums. CIMA has 70+ bilateral and multilateral cooperation arrangements with international regulatory authorities, including an MOU with the NAIC and direct MOUs with other state regulators. CIMA is also a signatory of the IAIS Multilateral Memorandum of Understanding which allows CIMA to cooperatively exchange information with other signatories.

According to Section 9(1)(a) of the Insurance Act and the Actuarial Valuations Rules and Statement of Guidance, each Cayman Islands licensed life and annuity reinsurer is required to provide CIMA with an annual Actuarial Valuation Report that is compliant with the requirements of the IAIS. The Actuarial Valuation Report is a detailed test of solvency, requiring an actuarial analysis of the valuation of the assets and liabilities as well as capital adequacy of the company. Various stress testing that reflects the risks of the business must be included in the analysis. This Report is prepared by the Appointed Actuary and reviewed by the Peer Reviewing Actuary. Both roles must be approved by CIMA, at the time of the licensing of the company and for any ongoing changes within the roles. The criteria used by CIMA when determining whether to recognize or approve an actuary are set out in the CIMA Regulatory Policy on The Recognition and Approval of an Actuary.

October 11, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Dear Chair Hemphill:

Thank you for the continued opportunity to provide comments on the Life Actuarial (A) Task Force (LATF) AAT for Reinsurance Actuarial Guideline Draft exposure. I write as a representative of the Cayman International Reinsurance Companies Association (CIRCA). Founded in October 2020, CIRCA is now made up of over 60 members. The association is dedicated to promoting collaboration, advocating for regulatory excellence, and driving educational initiatives in the Cayman Islands' reinsurance sector.

We most recently commented with regard to Scope and Aggregation. This week CIRCA is taking the offered opportunity to address other items within the exposure draft. These other items are the definitions of Total Reserve and Primary Security.

Total Reserve

CIRCA has emphasized in our previous letters that all of our transactions are fully collateralized. The ceding company has possession of or contractual access to assets with a value equal to or in excess of the ceded U.S. Statutory Reserve. The assets committed by a reinsurer to a transaction (and available to a ceding company in the event of a recapture) is this collateral value and not the reserve posted in its financials. We stated previously our assertion that fully collateralized agreements should be out of scope but, absent this treatment, we strongly believe the definition of Total Reserve in 3.G. should be:

Total Reserve – (a) The reserve held by the ceding company, plus (b) the greater of (i) the reserve held by the assuming company; or (ii) the total contractually obligated resources by the reinsurer for the benefit of the policyholder; less (c) the amount of reserves held by the assuming company supported with assets other than Acceptable Assets (to be addressed in next section).

The contractually obligated resources may include assets held on the ceding company balance sheet supporting risks ceded under modified coinsurance or coinsurance with funds withheld. It also can include clean, irrevocable, unconditional and "evergreen" letters of credit from qualified U.S. institutions or assets held on the reinsurer's balance sheet but in the U.S. with a trustee in a reserve credit trust. Further, it often includes contractual levels of overcollateralization held for the benefit of the ceding company.

This modification to the Total Reserve definition would then be used in determining Reserve Decrease (3.E.), in performing Cash Flow Testing (5.A.), in performing Attribution Analysis (6.A.) and in evaluating Relevant Risks (4.B.)

Primary Security

We commented on this definition in our last letter but would like to reiterate our position. In 3.D. we would recommend defining and using "Acceptable Assets" to include both Primary Securities and Other Securities as described in AG 48 (4D and 4E, respectively). This is consistent with permissible investments in the relevant regulator's state. For reference, in AG 48 Section 4E, Other Securities are defined to be: "Any asset, including any asset meeting the definition of Primary Security, acceptable to the Commissioner of the ceding insurer's domiciliary state."

CIRCA again appreciates the opportunity to provide comments to LATF and thanks you for your consideration. We welcome any opportunity to discuss these and any other points further as the Task Force deems appropriate.

Sincerely,

David C. Self
Chair of Board of Directors
Cayman International Reinsurance Companies Association.

Missouri prefers the narrow and specific scope under Option 1 and will offer the following comments:

2A:

a) We need to take out the reference to VM-30. Exempting reinsurance transactions to US reinsurers through this VM-30 reference creates an unlevel playing field for covered agreement reinsurers and could run afoul of the covered agreement. By removing the VM-30 reference we are focusing only on the reinsurance transaction itself regardless of the location of the reinsurer.

b) The size factors are very small so we suggest increasing them and adding a catch all (5) for small companies that might have transactions that otherwise not hit the transaction size but still be material to them. The revision is summarized below:

	MO's revised Scope	
	reserve credit ($M)	% of GR
1	5000	
2	1000	5
3	500	10
4	100	20
5		50

	Original Scope	
	reserve credit ($M)	% of GR
1	5000	
2	1000	2
3	100	10
4	10	20

c) Reserve credit is determined irrespective of the amount of fund withheld. We suggest remove the reference to fund withheld in the scope criteria.

2B: We suggest deleting the verbiage in B(1) and B(2), which appears to be redundant. LATF can add additional guidance to significant collectability risk as it sees fit.

2. Scope

OPTION 1: Narrow scope, some analysis expected for all treaties in the scope

This Guideline shall apply to all life insurers with:

A. Reinsurance ceded to entities ~~that are not required to submit a VM-30 memorandum to US state regulators in~~ **for** treaties established 1/1/2016 or later that meet any of the criteria determined ~~by~~ for each counterparty in subsections (1) through (~~4~~**5**) below:

(1) In excess of $5 billion of combined reserve credit ~~or funds withheld or~~ and modified coinsurance reserve ceded

(2) Combined reserve credit~~, funds withheld~~, and modified coinsurance reserve ceded in excess of:

(a) $1 billion and

(b) ~~2~~**5**% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

(3) Combined reserve credit~~, funds withheld~~, and modified coinsurance reserve ceded in excess of:

(a) $~~1~~**5**00 million and

(b) 10% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity

reserves

(4) Combined reserve credit, ~~funds withheld~~, and modified coinsurance reserve in excess of:

(a) $10**0** million and

(b) 20% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

(5) Combined reserve credit~~, funds withheld~~, and modified coinsurance reserve ceded in excess of 50% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

B. Reinsurance ceded to entities, regardless of treaty establishment date, that results in significant reinsurance collectability risk

~~(1) For year-end 2025, significant reinsurance collectability risk is determined according to~~

~~the judgment of the ceding company's Appointed Actuary~~

~~(2) For year-end 2026, [placeholder for more objective guidance?]~~

~~OPTION 2: Broader scope for the AG, details on whether analysis is expected is contained in the~~

~~Analysis sections~~

~~This Guideline shall apply to all life insurers with combined reserve credit, funds withheld, and modified coinsurance reserve in excess of: $10 million or 20% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves.~~

PETER GOULD

September 19, 2024

Life Actuarial (A) Task Force
NAIC

Re: Reinsurance Asset Adequacy Testing Concepts - https://content.naic.org/sites/default/files/inline-files/Straw%20Man%20Draft%20-%20AG%20ReAAT%20-%20LATF%20081124.pdf

Dear Members of the LATF:

I am a retiree and am writing to comment as a consumer and annuity contract owner with skin in the game. My wife and I depend on Guaranteed Lifetime Withdrawal Benefits from Roth IRA variable annuities for a considerable portion of our retirement income. We did not purchase annuities as speculative investments.

As an annuity owner, the insurer's obligations to me are spelled out in my contracts. However, there are no provisions in my contracts that protect me or provide me rights to prevent my insurer from becoming insolvent or unable to meet their contractual obligations to me. **Consumers rely entirely on state regulators** to adopt and enforce regulations that **proactively and effectively** prevent impairment of insurers' solvency, inability of insurers to honor their contractual obligations to policyowners and failures of insurers.

With respect to reinsurance and counterparty transactions by which risk is transferred to a third party, I'm totally dependent on state regulators to ensure that the invested assets of the reinsurer are adequate to support the ceded reserves so that the money is there when I submit a claim.

Reinsurance and counterparty transactions frequently result in substantial reductions to Total Asset Requirements (TAR). Without your oversight and regulation, these practices increase the likelihood that I will outlive my insurer and that my contractual benefits (bought with my hard-earned dollars remitted as premiums) will not be paid to me when I need them. I don't want to be left "holding the bag", like the 92,000 PHL Variable Life policy owners.

I strongly support the broadest, most in-depth scope for these rules as possible. To that end, I offer the following comments on scope of the Straw Man Draft - AG ReAAT - LATF 081124.pdf:

1. Effective Date - To me, this is a component of scope and I support making the changes applicable to December 31, 2024 Annual Statements. Delaying the effective date until 2025 will be detrimental to consumers as it will facilitate an increase of the already exponential rate by which insurers are moving business offshore to sidestep US reserve requirements and arbitrage regulation and enforcement.

P.O. Box 8815 Bloomington, IN 47407-8815

2. Scope - to cast the widest net of consumer protection, I support option 2, modified as follows: "This Guideline shall apply to all life insurers with combined reserve credit, funds withheld, and modified coinsurance reserve in excess of the lesser of: $1 million or 5% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves."

   In addition, these rules should apply to all treaties/ceded business regardless of establishment date. There's no reason to compromise consumer protection by giving a free pass to older arrangements. Given the huge amount of reinsurance already in place and its exponential growth, it's essential to cover all such arrangements. Prior comments have suggested that it may be too difficult to assemble and analyze the data. Given the systemic risk, the incremental cost to provide this information pales in comparison to the cost of an insurer liquidation.

Thanks for your consideration of my comments and the work that you do to protect consumers.

Yours truly,

Peter Gould

Peter Gould

REINSURANCE ASSOCIATION OF AMERICA

October 3, 2024

Rachel Hemphill, Chair
Fred Andersen
Life Actuarial Task Force
c/o Scott O'Neal, soneal@naic.org

RE: Asset Adequacy Testing for Reinsurance: Comments on Scope

Dear Rachel and Fred,

The Reinsurance Association of America (RAA) appreciates the opportunity to provide input on the Life Actuarial Task Force's (LATF) AG Reinsurance Asset Adequacy Testing (AAT) Straw Man Draft 1 proposal. The Reinsurance Association of America (RAA) is the leading national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates and insurance-linked securities (ILS) fund managers and market participants that are engaged in the assumption of property/casualty risks. The RAA represents its members before state, federal and international bodies.

The RAA appreciates LATF's ongoing consideration of industry input, and we remain committed to providing LATF feedback on its efforts. We also applaud LATF and the NAIC for its enhanced coordination on workstreams impacting reinsurance. As requested, this comment letter is restricted to comments on Scope as set forth in Section 2 of the AG ReAAT Straw Man Draft 1 proposal (the " Guideline").

"Asset Intensive" Reinsurance Transactions

In general, we support a narrow scope for the proposed Guideline. A narrower scope enables regulators to focus their attention and resources only on the "asset intensive" transactions for which regulators have expressed collectability, reserving, and asset quality concerns. To narrow the scope, we propose defining an "asset intensive" reinsurance transactions using the chart in Section 2.f. of Appendix A-791 which identifies life insurance products that have significant asset/investment risk including credit quality, reinvestment, and disintermediation risk.

In doing so, the Guideline would apply to asset intensive reinsurance transactions but not to transactions without significant asset risk such as transactions reinsuring term life business, yearly renewable transactions reinsuring only mortality or morbidity risks, and non-proportional reinsurance transactions such as catastrophic and stop-loss coverage.

Once the asset intensive reinsurance transactions are identified, the proposed thresholds in

Scoping Option 1 could be applied to determine which asset intensive reinsurance transactions are subject to the Guideline.

Retroactive v. Prospective Application

LATF has discussed whether the Guideline should apply to existing asset intensive transactions. In our view, application of the Guideline to existing asset intensive transactions should be limited, applying only to material transactions with effective dates on or after January 1, 2020. Materiality could be determined based upon the size of the transaction relative to the ceding companies' net reserves, capital and surplus or some other financial measure.

Modified Coinsurance or Coinsurance with Funds Withheld Arrangements

Scoping Option 1 of the proposed Guideline provides scoping thresholds with respect to funds withheld and modified coinsurance agreements. In our view, the Guideline should contain an exemption for modified coinsurance or coinsurance with funds withheld arrangements where the total modco and funds withheld assets held by the ceding company equal or exceed the total US statutory reserve ceded under the reinsurance contract. These assets are held by, and on the books of, the ceding company, and the ceding company has control over these assets.

LATF has expressed concern over the transparency to regulators of the assets backing the ceded reserves in asset intensive reinsurance transactions. The Statutory Accounting Principles Working Group (SAPWG) has exposed a proposal (Ref #2024-07) requiring the identification of funds withheld and modified coinsurance assets supporting reinsurance transactions. Under the proposal, ceding companies would identify these assets on a new addendum to Schedule S in the life annual statement blank resulting in full transparency of these assets to regulators. If these assets cover the US statutory reserve, there should be no concern requiring additional scrutiny.

Assets Pledged as Collateral and Meeting the Requirements for Credit for Reinsurance

Section 3 of the NAIC Credit for Reinsurance Model Law allows as an asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an unauthorized reinsurer. The reduction is in the amount of funds held by the ceding insurer or on behalf of the ceding insurer in a credit for reinsurance trust, as security for the payment of the reinsurer's obligation. The security must held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution. The security may be in the form of:

A. Cash;

B. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

C. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution; or

D. Any other form of security acceptable to the commissioner.

In our view, the Guideline should allow a credit or offset against the scope thresholds for funds withheld assets, assets in trust, or qualifying letters of credit issued by qualified US Financial Institutions so long as those assets meet the requirements for credit for reinsurance because those assets are held by, under the control of, and on the books of the ceding company.

Additionally, if the SAPWG proposal regarding the identification of funds withheld and modified coinsurance assets supporting reinsurance transactions is adopted, these assets will be identified and fully transparent to regulators.

Transactions Subject to Regulatory Approval

Certain reinsurance transactions are subject to regulatory approval by the ceding company's domiciliary regulator. Those reinsurance transactions include transactions subject to various state laws and certain affiliated transactions. We believe those transactions should be exempt from the Guideline because they are subject to regulatory approval, and during the approval process, the domiciliary regulator has the discretion to impose requirements such as cash flow testing of the reinsurance transaction as a condition to approving the transaction.

Regulators have expressed concerns regarding affiliated transactions but we are unaware of the nature of the concerns. Perhaps further discussions would be helpful in identifying those concerns. In our view, consideration should be given to these existing regulatory requirements for certain reinsurance transactions to avoid unnecessary duplication with respect to such transactions.

Reinsurance Ceded to a Reinsurer filing a VM-30 Report

The Guideline exempts reinsurance transactions ceded to a reinsurer that files a VM-30 Report. While we do not object to this exemption, the exemption practically limits the Guideline to reinsurance transactions ceded to offshore reinsurers and perhaps, onshore captive reinsurers. LATF indicated the purpose of the Guideline is to gather information. Gathering information only on offshore reinsurance transactions likely does not violate the Covered Agreements between the US and EU and the US and the UK (Covered Agreements). However, if, after gathering this information, additional requirements are imposed on

transactions between US ceding companies and offshore reinsurers located in the EU or UK, those additional requirements likely would violate the Covered Agreements. Furthermore, applying additional requirements to reinsurance agreements between US ceding companies and Reciprocal Reinsurers located in Reciprocal Jurisdictions would violate the spirit and intent of the laws and regulations adopted by all states regarding Reciprocal Jurisdictions and Reciprocal Reinsurers.

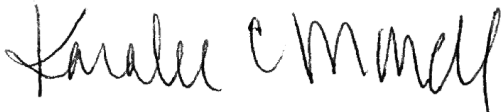
Perhaps LATF should consider an exemption for reinsurers that file a report that is equivalent to a VM-30 Report. The Guideline could identify the requirements for determining whether a report is equivalent to a VM-30 Report.

Conclusion

We urge a solution that is narrowly tailored to effectively address the concerns identified by regulators, ensuring the collectability of reinsurance. Implementation of overly broad regulatory requirements that duplicate existing regulatory tools risks the loss of needed reinsurance protection and the resulting opportunity to close the protection gap. Adding regulations that create friction and costs may discourage effective risk management through reinsurance without commensurate benefits.

The RAA continues to support LATF's work to find an appropriate solution that addresses the problem without severely disincentivizing the deployment of reinsurance capacity. Ensuring that the scope of this Guideline is appropriately tailored is a crucial first step in this process.

Sincerely,



Karalee C. Morell
SVP and General Counsel

Re-AAT Comments

John Robinson FSA, FCA, MAAA

August 26, 2024

LATF,

Thank you for the opportunity to comment on this document, which I believe is very important. The conversation started from the observation that if an insurer has modco reinsurance, in which case, it has both the assets and liabilities on their books, then the insurer should perform CFT on this block for the same reasons that it performs CFT for the other reserves on its books. The conversation has clearly gone a long way from there, and I am thankful for the progress.

Comment 1: Concerning Section 2, "Scope":

1. Option 1, Statement 2(b): "2% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves."

   Comment: This statement, as written, can be interpreted in two ways:
   (2% of ceding company gross Exhibit 5 gross life insurance) plus (gross annuity reserves).

   Or

   2% of (ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves)

   Please re-write to make it clearer which interpretation applies. Note that this phrase occurs several times, including in Option 2.

Comment 2: Concerning the choice between Option 1 and Option 2:

I am concerned that Option 1 can be defeated by the insurer simply increasing the number of counterparties participating in the reinsurance of a block of business.

Comment 3a: Definition of "Deficient Block"

This is a minor wordsmith: Instead of "When a block of business shows negative…", say "A block of business that shows negative…"

Comment 3b: Definition of "Sufficient Block"

This is a minor wordsmith: Instead of "When a block of business shows positive…", say "A block of business that shows positive…"

Comment 4: Definition of "Pre-reinsurance reserve"

The use of the phrase "in the absence of the reinsurance transaction" suggests that the term applies in the context of a single transaction between the insurer and reinsurer. Please assess whether the use of the term in the document is consistent with this interpretation. I suggest you apply the same consideration to the use of the terms "Total Reserve" and "Reserve Decrease".

Comment 5: Definition of "Attribution Analysis"

This is a minor wordsmith: Since the pre-reinsurance reserve is defined to be a US statutory reserve, the phrase "U.S. statutory" in the definition of "Attribution Analysis" can be deleted.

Comment 6: Requirements

I am unclear as to what work the document requires. The Scope section identifies which companies are subject to the provisions, not which treaties are to be analyzed. The closest I can come to Requirements is Section 5A, which suggests (but does not state explicitly) that the insurer is required to perform some form of asset adequacy analysis on the Total Reserve. If the Total Reserve only pertains to a single transaction, as mentioned above, then this implies that the insurer must perform a stand-alone analysis for each transaction. I suggest you add a "Requirements" paragraph.

Thank you 😊

rrc risk®ulatory CONSULTING

Memo

To:	Rachel Hemphill, FSA, MAAA, FCAS, Life Actuarial Task Force
From:	Patricia Matson, FSA, MAAA, Partner, RRC Ben Leiser, FSA, MAAA, Director, RRC
Date:	October 11, 2024
Subject:	RRC Comments Regarding LATF's Reinsurance AAT Actuarial Guideline Draft Exposure

Background

The Life Actuarial Task Force (LATF) is requesting comments on the AAT for Reinsurance Actuarial Guideline (AG) Draft ("the Exposure"). Per LATF's request for earlier comments regarding the Scope and Aggregation sections of the Exposure, RRC provided prior comment letters on September 19th.and October 3rd. For ease of reference, we have included in this comment letter our previously submitted comments as well as comments on the remaining sections. Note that we have two additional comments on the Scope section that were not previously provided, and those are in bold font.

RRC appreciates the opportunity to offer our comments. Should you have any questions, we would be glad to discuss our comments with you and Task Force members.

We appreciate the work LATF has undertaken to address what we believe is a critical industry issue, namely the significant use of reinsurance, including offshore reinsurance, to provide US insurers with material reserve and capital relief.

RRC has assisted regulators in reviewing a variety of reinsurance transactions that result in material reductions in the total asset requirement (TAR) backing the policyholder obligations. We understand that while these transactions are executed for a variety of appropriate business and financial strategies, we also believe that in some cases they can result in reserves or capital that are reduced to a level that raises questions about their appropriateness from a policyholder protection perspective.

General Comments

We believe that when an insurer makes a promise to its direct policyholders, it is critical for the insurer to set operational and financial standards that will enable it to meet that promise. One such standard would be to ensure there are sufficient assets to pay future claims. This does not change when the insurer chooses to reinsure the business.

Based on this important promise, in a case in which an insurer uses reinsurance to reduce reserve and capital requirements that it views as overly conservative, we believe it would be reasonable to expect the insurer to continue to hold *adequate* reserves and capital, based on US statutory requirements. Based on the overall statutory framework, reserve adequacy has tended to be viewed as the level that would be sufficient under moderately adverse conditions (which may equate to an 85% confidence level). Capital would then cover conditions beyond moderately adverse, up to a higher confidence level (such as 95%).

Therefore, we believe that a goal of the Exposure (which we recognize is focused on reserves) should be

to set guardrails so that reserve financing transactions do not result in those reserves declining below a level that would be sufficient to cover policyholder obligations with approximately 85% confidence (or under moderately adverse conditions) based on the US statutory framework. This seems to be a fundamental minimum, under US statutory guidance, to meet policyholder protection while still allowing for the use of reinsurance to finance reserves.

Comments on Effective Date

We believe that additional guidance is needed as soon as feasible, and therefore we support a December 31, 2025 effective date (since sooner implementation does not appear feasible). We also support ultimately incorporating the AG into the Valuation Manual.

Comments on Scope

With respect to the two options laid out in the Exposure, RRC is in favor of "Option 1: Narrow scope, some analysis expected for all treaties in the scope." Our rationale for this is to address the areas of concern while avoiding creating significant work for Appointed Actuaries and regulators that does not materially address the areas of concern.

Based on our experience, it appears to be a relatively small subset of all reinsurance transactions that result in a material reduction in TAR. Therefore, we are in favor of limiting the scope of the new guidance to reinsurance transactions that result in such material reduction (or may result in such reduction in the future).

We are in favor of using a size threshold as laid out in the Exposure.

We agree with exempting treaties in situations in which the reinsurer is required by law to provide a VM-30 memorandum, since such treaties are unlikely to result in a significant reduction in TAR. **The VM-30 report exclusion is valuable primarily because a counterparty reporting under VM-30 is highly unlikely to have a materially lower reserve requirement, and not because the report itself would address the areas of concern. Therefore, we disagree with excluding transactions solely on the basis that the reinsurer provides a VM-30-like report without actually being subject to VM-30.**

We agree with including any treaty that presents significant collectability risk. Potential approaches to defining such risk are:

1. Credit rating (however, we don't believe that this alone is sufficient)
2. Solvency position (e.g. the reinsurer's capital exceeds the regulatory intervention threshold in its jurisdiction)
3. Delays in payment on the reinsurance agreement that exceed a defined period such as 180 days

We also note that in the case of significant collectability risk, an appropriate reserve would need to take into account the potential need for the cedant to re-establish the full U.S. Statutory reserve if the reinsurer were to default. For example, if the U.S. Statutory reserve is materially higher than an 85th percentile reserve set solely based on the projected underlying asset and liability cash flows, and the reinsurer defaults, the cedant would have to hold the full statutory reserve. This should be considered by the cedant's Appointed Actuary in their asset adequacy assessment.

LATF may want to consider exempting from scope treaties that meet the following criteria, since such treaties are unlikely to result in a significant reduction in TAR:

1. The treaty does not involve business with material investment risk (for example, YRT treaties)
2. The current and projected future reserves that will be held by the reinsurer are not materially less

than those required under the U.S. Statutory framework

We do not believe that scoping out modified coinsurance transactions or those that use a trust or funds withheld makes sense, because such transactions can result in a material reduction in assets available to fund future obligations.

Comments on Definitions

Regarding the definition of Attribution Analysis, we suggest including in the definition other anticipated significant contributors, beyond assumptions, to differences between the pre-reinsurance Statutory Reserve and the Total Reserve. Suggested language could be "….differences in individual key assumptions, underlying methodology, application of any floors, and allowances for risk offsets among policies" or similar.

Regarding the definitions of Deficient and Sufficient Block, we suggest clarifying that the cash-flow testing scenarios are those used under a US Statutory Framework. In other words, the assessment of sufficiency and deficiency is based on the US Statutory cash flow testing approach.

Comments on Risk Identification

We agree with the criteria outlined for determination of the relative level of risk, and with the concept that higher risk should imply more rigorous and frequent analysis by the Appointed Actuary.

Another risk that may be worth consideration is the risk profile of the assets backing the liabilities post reinsurance transaction. Suggested language could be "A significant change in the investments or investment strategy that results in higher risk or higher volatility in the current or future asset portfolio."

Comments on Analysis and Documentation in Light of Risks

We believe that cash flow testing should be mandatory in instances in which there is a Significant Reserve Decrease (as defined in the Exposure) and "where cash flows vary under different economic scenarios" (as described in Actuarial Standard of Practice No. 22, STATEMENTS OF ACTUARIAL OPINION BASED ON ASSET ADEQUACY ANALYSIS OF LIFE INSURANCE, ANNUITY, OR HEALTH INSURANCE RESERVES AND OTHER LIABILITIES (ASOP 22).

As described in our General Comments above, in a case in which an insurer uses reinsurance to reduce reserve and capital requirements that it views as overly conservative, we believe it would be reasonable to expect the insurer to continue to hold *adequate* reserves and capital, based on US statutory requirements. Use of cash flow testing would be an appropriate approach to make such an adequacy assessment for business for which the cash flows are expected to vary with variation in economic scenarios. If there is a Significant Reserve Decrease and the business does not have cash flows that are expected to vary under different economic scenarios, alternative approaches as laid out in ASOP 22 (such as a gross premium valuation) would be reasonable (although there may not be many transactions that fit these criteria, as noted in item B(1) of the Exposure).

We do not believe that the existence of a trust or funds withheld should impact whether cash flow testing is performed. If there is a Significant Reserve Decrease, an assessment of asset adequacy would be needed to determine if there are sufficient assets to cover future policyholder obligations regardless of who is holding the assets.

We do not believe that review of counterparty risk/collectability alone is sufficient to address concerns regarding material reductions in TAR. The Appointed Actuary is already required to evaluate counterparty risk per the requirements of actuarial standards of practice (both ASOP 22 and ASOP 11**,** Treatment of Reinsurance or Similar Risk Transfer Programs Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports), and that would continue. However, review of counterparty risk alone would not address situations in which a company cedes a large proportion of its reserves to a strong counterparty that suffers a subsequent material decline in the counterparty's financial resources, resulting in the ceding company needing to recapture the business with insufficient assets available to cover TAR. In addition, if a lot of reinsured business is concentrated in a small number of reinsurers, insolvency of one or more of those reinsurers could lead to systemic risk. In light of the increasing trend to move economically sensitive business offshore, the industry could face a situation similar to the current long term care crisis, i.e., without sufficient total assets available to pay policyholder claims. We support requirements for the Appointed Actuary to directly assess the adequacy of the invested assets backing the ceded reserves.

We also note (as stated in the Scope section above) that in the case of significant collectability risk, an appropriate reserve would need to take into account the potential need for the cedant to re-establish the full U.S. Statutory reserve if the reinsurer were to default. For example, if the U.S. Statutory reserve is materially higher than an 85th percentile reserve set solely based on the projected underlying asset and liability cash flows, and the reinsurer defaults, the cedant would have to hold the full statutory reserve. This should be considered by the cedant's Appointed Actuary in their asset adequacy assessment.

We support inclusion of the option for the domestic insurance commissioner to require cash flow testing for individual treaties or counterparties.

Comments on Attribution Analysis

Attribution analysis alone would not ensure adequate assets to cover policyholder obligations. Therefore, we do not believe that requiring disclosure of attribution analysis alone is sufficient to address this important issue. We believe that any company ceding reserves for economically sensitive business to a reinsurer has an obligation to understand how the reinsurer is managing the assets and mitigating risk. Most agreements include investment guidelines. Therefore, it seems that the Appointed Actuary should be able to gain some insight into how the reinsurer is investing. While it is true that the Appointed Actuary may not be able to obtain sufficient details to model each actual asset backing the business, reasonable approximation methods could be used. Therefore, as noted above, we are in favor of prescribing cash flow testing for economically sensitive business based on specific and defined risk-based criteria. If a US insurer is willing to write business, that insurer should be willing to ensure assets are held in support of that business at a level that covers moderately adverse conditions. This is a very reasonable minimum threshold.

If attribution analysis is used as the sole basis to address asset adequacy for reinsured business, and the use of results is left to the discretion of the individual actuary and their regulator, there may be material differences in how the results impact the amount of assets held in support of reinsured business from company to company. We believe that this is an undesirable result, as we believe there is currently industry and regulator concern regarding a "non-level playing field" due to the current significant level of discretion in how AAT is performed for reinsured business.

Comments on Aggregation

Based on our experience, the transactions that are generating regulatory concern are those in which the insurance company achieves a significant reduction in TAR. In other words, the treaty is entered into for

the express purpose of reducing reserves and/or capital. While such a transaction may be done for good business reasons, we strongly believe that there should not be adverse impacts on policyholder protection. Therefore, we believe that the assets available to cover future policyholder obligations should remain at a level that aligns with overall statutory principles. As described above, this would imply that the reserves backing the transferred business would still be set at approximately an 85% confidence level, and capital at a 95% confidence level. Therefore, we believe that standalone testing of the adequacy of the assets backing reserves for the transferred business is appropriate. Such testing would be used to ensure that the assets backing the reserves post-transaction are still adequate to cover policyholder obligations under moderately adverse conditions. This seems like an appropriate minimum standard, and would still allow companies to free up capital in situations in which formulaic statutory reserves are viewed as excessive (i.e. materially greater than an 85% confidence level). In other words, we do not support aggregation across treaties, counterparties, or with retained blocks of business.

While we recognize that current asset adequacy testing (AAT) allows for aggregation of business, the purpose of AAT is as a backstop test to ensure that the formulaic statutory reserves (which are intended to be conservative) continue to be sufficient. Therefore, the testing allows for aggregation of deficient blocks (i.e. blocks that have booked statutory reserves that are below the 85% confidence level) with sufficient ones as long as "the assets or cash flows from the blocks are available to support the reserves" (per ASOP 22, *Statements of Actuarial Opinion Based on Asset Adequacy Analysis for Life Insurance, Annuity, or Health Insurance Reserves and Other Liabilities*). We believe that in a situation in which an insurance company is proactively seeking surplus relief through a reinsurance treaty (typically because reserves are believed to be overly conservative), it is reasonable to expect that the post-transaction reserves continue to be sufficient on a standalone basis.

Comments on Documentation

We believe this section contains reasonable documentation expectations, and do not have any specific comments.

Thank you for the opportunity to provide comments on this important topic. We can be reached at 860-305-0701/tricia.matson@riskreg.com or 201-870-7713/ben.leiser@riskreg.com if you or other members have any questions.

Response to Straw Man Draft for Reinsurance AAT Actuarial Guideline

Document: Straw Man Draft - AG ReAAT - LATF 081124.pdf (naic.org)
Document Date: 8/11/2024

Date of response: 9/6/2024
Author: Aaron Ziegler, FSA, CERA, MAAA
Title: Chief Actuary and Appointed Actuary – Illinois Mutual Life Insurance Company
Email: ATZiegler@illinoismutual.com

To: Scott O'Neal: soneal@naic.org

Note: My response below represents solely my own opinion. No part of my response should be deemed to represent the opinions of Illinois Mutual nor the opinions of the other actuaries at Illinois Mutual.

I thank you for your time and efforts and the ability to make comments on this exposure draft.

Request:

The request for commentary was broken into a few parts:

1. For **Section 2, Scope**, please provide related comments by **Sep. 19** to allow for discussion at a Sep. 26 meeting of LATF.
2. For **Sections 5.C and 7, Aggregation**, please provide related comments by **Oct. 3** to allow for discussion at a Oct. 10 meeting of LATF.
3. Comments on the **remaining sections** are requested by **Oct. 11**.

Part 1 – Section 2 scope

The scope is broken down into two separate sections:
1. Option 1: Narrow scope, some analysis expected for all treaties in the scope
2. Option 2: Broad scope

For option 1 –
Part A: The description states that is applies for reinsurance "ceded to entities that are not required to submit a VM-30". Maybe better would be simply to state whether the reinsurer is an "admitted" reinsurer.

I would like to see some guidance here regarding what is NOT in scope. To me: highly rated reinsurers who are "admitted reinsurers" should be excluded from the scope.

I urge caution regarding the thresholds defined in 1-4. There may be certain instances where a 5% reserve credit is too large and risky whereas a 30% reserve credit might be stable and reasonable.

Part B: I applaud the wording here. “Significant reinsurance collectability risk” … “according to the judgement of the ceding company’s Appointed actuary.”
This is excellent phrasing each insurer (and correspondingly reinsurer) are unique. It’s important to leverage the expertise and judgement of the Appointed actuary to determine whether there is “significant collectability risk.”

For option 2
Option 2 is too broad and brings in TOO many “plain vanilla” reinsurance agreements (co-insurance on term policies) where there has been very small amounts of risk to the industry for the last 50+ years. I urge the regulators to proceed with caution when painting with a broad brush. The general tendency over the last number of years is to create onerous regulation which does little to add to the strength of the industry.

In particular, small insurance companies often have large reinsurance credits on a percentage basis. This is not necessarily a bad thing! Small companies get the benefit of experience and stability from highly rated reinsurers. Moreover, the ability for small companies to be in the market and compete with large companies benefits the consumer with lower and more competitive prices.

Suggested “Option 3” for scope
In general, the appointed actuary is responsible for the credit worthiness and reliability of the reinsurers that the company is transacting with. The wording of Option1.B is excellent, why not start there to define scope? If, in the opinion of the appointed actuary all reinsurance agreements are out of scope, a small writeup / explanation from the appointed actuary describing the thought process in the AOMR would be a reasonable request for this regulation.

Part 2 – 5C and 7, Aggregation

The regulators need to be extremely careful here. There are a number of things going on in the details which may not be aptly considered.

While 5E suggests that the actuary may use “simplifications”, I humbly ask the regulators to recognize that asset adequacy testing (AAT) is not (typically) performed on a seriatim basis (i.e. policy by policy and reinsurance agreement by reinsurance agreement). As it is, AAT is performed using a model and approximations.

On this front, many insurance companies have model point compression (lumping more than one policy together) and the process for modeling reinsurance is rarely done on a treaty by treaty basis. This is done for a number of reasons:

1. When the model points are compressed, if 5% of the business in the model point is reinsured, then the model will reimburse 5% of the benefits. It’s possible that some of these

policies in the singular model point were reinsured at 100% and some may not have been reinsured at all. Overall – the impact to the company is immaterial.

2. Even if we side-step model point compression and look instead at a singular policy – it is common for a company to share the reinsurance with more than one reinsurance company. When the financial benefits of this is modeled ["Modeled" is an important key word as this should be understood as "estimated" or "approximated"] more often than not, a simple calculation is made for a singular reinsurance benefit in the model (even though it may come from more than 1 reinsurance company).

Why is this done? It's a model! Models are simplifications of reality. Run time, computation time, analysis time are all very expensive. Actuaries use judgement to make simplifications and efficiencies.

Is it a concern that a single policy might be reinsured by more than 1 reinsurance company but is not modeled that way? No. In fact, this is conservative! It is rare that a highly-rated reinsurer goes bankrupt, but it is even more rare that MULTIPLE highly rated reinsurers go bankrupt. So, by modeling "split company reinsurance" through a simple mechanism in a model is conservative.

Additionally, as a follow-up here, 5E suggests that the actuaries can use "modeling efficiency techniques if the appointed actuary can demonstrate that the use of such techniques does not make the analysis results more favorable." This language is borrowed from the existing valuation manual, VM20. This is easier said than done. Reworded, this sentence suggests that in order to prove that you can use modeling efficiencies – you must model without the efficiencies first and then you can use the efficiencies. These things are not always possible. I urge the regulators to rely upon the opinion of the Appointed Actuary and his/her judgement on these matters.

Now, with this said, my comments heretofore have been primarily focused on plain-vanilla reinsurance contracts. If, however, the reinsurance agreements were highly complex and asset intensive – then perhaps a more rigorous approach to reinsurance modeling would be warranted. I recognize the importance of this and the risk of such an agreement, but I share my thoughts with the regulators because I want to make sure that the regulation does not paint with too broad of a brush putting unnecessary burden – especially on small company actuaries and simple reinsurance arrangements.

Part 3 - Comments on other sections

Section 6 describes an attribution analysis for "relevant treaties." I've mentioned before, up above, but it bears repeating that plain-vanilla reinsurance is often not modeled on a treaty by treaty basis in actuarial AAT models. The analysis described, may be worthwhile for the risky and asset intensive reinsurance agreements, but regarding simple YRT or coinsurance arrangements on simple level term policies – this would be onerous and would not provide the regulators with useful information.

Section 8.A states: "If cash flow testing is performed, present New York 7 results." Some companies are not subject to New York and therefore may not run the NY7 scenarios. Moreover, VM30 does not require nor define what the "New York 7" scenarios are. It does not seem appropriate to inherently require the NY7 scenarios through this backdoor amendment regarding reinsurance. If the regulators desire to have a fixed set of scenarios – this should be requested in VM30 directly not independently required here.

A question at the beginning of the document is of keen interest to me:
“Should these requirements not apply to reinsurance treaties established prior to a certain date? … [this] may leave out a few substantial treaties of interest.”
Given that the regulators are already apparently aware of certain concerns with some treaties, why go the route of creating a new actuarial guideline instead of just going directly to those companies of concern? The regulators already have the authority to do this.

This is a similar problem that regulators faced when dealing with ULSG in the early 2000’s. Instead of using the regulatory powers to discipline actuaries who were creating products simply to sidestep reserve requirements, AG38 was amended and reamended ad nauseum. We must be careful not to over-regulate the industry because of a few bad actors.