

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 be 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.

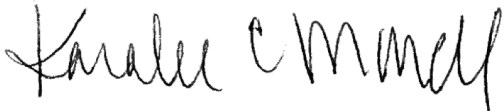
Perhaps LATF should consider an exemption for reinsurers that file a report that is equivalent to a VM-30 Report. The Guideline could identify the requirements for determining whether a report is equivalent to a VM-30 Report.

### **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