Prudential

January 27, 2022

Mr. Peter Weber, Chair
Mr. Tomasz Serbinowski, Vice Chair
National Association of Insurance Commissioners
LATF Index-Linked Variable Annuity (ILVA) (A) Subgroup

**Re: ILVA Subgroup Exposure of Actuarial Guideline ILVA: The Application of Model 250 to Variable Products Supported by Non-Unitized Separate Accounts**

Dear Messrs. Weber and Serbinowski:

Prudential Financial thanks the Index Linked Variable Annuity Subgroup ("Subgroup") for the opportunity to comment on the exposure of “Actuarial Guideline ILVA – The Application of Model 250 to Variable Products Supported by Non-Unitized Separate Accounts” (“Exposure”). We appreciate the Subgroup’s efforts in drafting the Exposure and exposing for a period of public comment. The draft forms a basis for Index Linked Variable Annuities (“ILVA”) however, we believe an enhancement is necessary to reflect the design model of products in the marketplace. This modification would maximize customer access while enhancing simplicity and allowing for future innovation.

The main consideration that the Exposure should address is that the ILVA product is fundamentally designed as a spread based product and not as an explicit fee product. The Exposure could be interpreted to require that the profit provisions, spread, and expenses be presented as an explicit fee disclosed in the contract which differs from the design of the product in the marketplace. The explicit fee approach would remove simplicity and result in an unnecessary disruption to the ILVA marketplace and impact consumer product choice.

Our proposal would be a clarification in language of the Exposure to promote consumer choice to spread based or explicit fee type products. Specifically, we recommend a new requirement, in the form of an actuarial certification to regulators attesting that spreads are reasonable based upon the current economic environment.

Our proposed language (redlines) is as follows:

> Drafting Note: The difference is expected to be small, as any profit provisions, spreads, and expenses may be reflected as explicit charges disclosed in the contract. If profit provisions, spreads, and expenses are not reflected as explicit charges disclosed in the contract, then the company must provide an actuarial certification to regulators that the spreads recognized to cover profit provisions and expenses are reasonable in the current economic environment. Analysis would be available upon request. Any explicit charges deducted at the beginning of the Index Term would decrease the Index Option Value for the purpose of the comparison to the Hypothetical Portfolio value. There may need to be a provision for recognition of periodic charges to be assessed over the Index Term in the comparison required above.

We view the analysis for this actuarial certification consistent with the Securities and Exchange Commission's (SEC) Reasonableness Memorandums. These SEC memorandums confirm that the fees being charged are in-line with the fees within the industry and therefore are reasonable. Insurers would perform a similar analysis around the index parameters to confirm that they are reasonable based upon the competitors' index parameters. This analysis would be disclosed to regulators upon request.

Prudential feels that the proposal, as outlined, would allow for a viable solution via the additional certification that would avoid any unnecessary disruption in the ILVA marketplace and preserve consumer choice.

Thank you for consideration of these comments.

Jonathan Clymer, FSA, MAAA
Vice President & Actuary