NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

To: Ben Slutsker (MN), Chair of the Life Risk-Based Capital (E) Working Group

From: Commissioner Nathan Houdek (WI), Chair of the Financial Condition (E) Committee

Date: October 26, 2026

Re: Reinsurance Recapture Risk for Non-Reciprocal Jurisdictions

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At the Summer National Meeting in Columbus, Ohio, the Financial Condition (E) Committee approved a referral to the Life Risk-Based Capital (E) Working Group directing the working group to take immediate action on issues of concern relating to reinsurance recapture and counterparty risk. That referral was in response to the significant increase in cross-jurisdictional reinsurance activity and the impact on numerous states with domestic companies that have been parties to those reinsurance transactions. This memorandum is specific to the issue of reinsurance recapture risk for cessions to non-reciprocal jurisdictions.

As a reminder, earlier this year, the Valuation Analysis (E) Working Group (VAWG) conducted an analysis of the initial filings required by Actuarial Guideline *LV—Application of the Valuation Manual for Testing the Adequacy of Reserves Related to Certain Life Reinsurance Treaties* (AG 55). From that analysis, a material number of reinsurance transactions were flagged as raising regulatory concerns which require immediate action by U.S. insurance regulators to ensure adequate policyholder protection.

The following information is being provided in response to comments and questions that have been received by the Life Risk-Based Capital (E) Working Group relating to this recent referral. Specifically, this memorandum provides additional explanation of the identified risks associated with the increase in reinsurance ceded to non-reciprocal jurisdictions and how regulators are focused on mitigating those risks. It should be noted that the AG 55 filings contain company-specific, confidential information which limits the amount of detailed information that can be shared resulting from the VAWG analysis.

Most significantly, VAWG's analysis of the AG 55 filings found that approximately 70% of life insurers ceding to non-reciprocal jurisdictions have portfolios of comparatively riskier assets supporting very generous annuity guarantees that raise significant concerns about the ability to pay future claims under reasonable economic scenarios. Furthermore, the reserves and capital supporting these annuity liabilities may fall below the newly adopted VM-22 annuity reserve standards, as well as U.S. Risk-Based Capital standards. There also continues to be notable growth in both the number of companies pursuing similar business strategies, as well as expansion in the size of existing companies through rapid annuity sales growth backed by higher-risk assets.

The referral to the Life Risk-Based Capital (E) Working Group was predicated upon four general matters from VAWG's analysis of the AG 55 filings, as follows:

1. The potential insufficiency of reserves maintained by the assuming reinsurer to satisfy claims arising under moderately adverse conditions;
2. The potential insufficiency of excess capital to absorb claims arising under conditions more severe than those characterized as moderately adverse;
3. Questions regarding the risk profile of assets supporting the applicable reserve obligations; and
4. Potential high-risk business practices of life insurers participating in transactions involving non-reciprocal jurisdictions.

With respect to matters #1 and #2, in evaluating AG 55 filings, certain transactions generally demonstrate a greater reliance on comparatively optimistic asset-return assumptions to meet capital adequacy requirements.

With respect to matter #3, life insurers participating in certain reinsurance transactions with non-reciprocal jurisdictions have generally pursued more aggressive asset strategies than insurers participating in comparable transactions that do not involve non-reciprocal jurisdictions, based on the review of the AG 55 filings.

With respect to matter #4, certain reinsurance transactions with non-reciprocal jurisdictions involve a significant percentage of life insurers that are newer market entrants or experiencing rapid growth. These insurers tend to pursue more aggressive asset strategies and assume significant liability risk, principally through the issuance of certain annuity products offering credited rates that are comparatively higher than the rest of the industry.

These findings warrant heightened concern, as comparatively generous annuity guarantees backed by higher risk assets have historically contributed to heightened financial distress for insurers. The increased availability of non-reciprocal jurisdiction reinsurance transactions may facilitate these higher-risk business strategies by enabling the issuance of products containing comparatively generous guarantees.

The concerns raised through the AG 55 observations regarding transactions involving non-reciprocal jurisdictions have been further heightened by the experiences of state regulators that have been able to gain insight into them. Among these is a concern about the use of capital and reserving practices in non-reciprocal jurisdictions that combine concepts from incompatible accounting, reserving and capital frameworks, which results in a regulatory framework that lacks coherence.

The magnitude of the observations described in this memo constitutes a serious and urgent solvency concern that requires immediate, direct action. As a result, the Committee has directed, as confirmed by this memo, that the Working Group implement an RBC requirement that approximates the amount of capital that would be required if a ceding company had to recapture reserves ceded to non-reciprocal jurisdictions. For clarity, **this is to be done without regard to the probability of recapture**.

Thank you for the work already put into accomplishing this referral on the requested timeline. Should any further clarification be needed, please contact Dan Daveline (ddaveline@naic.org).