2020 Fall National Meeting  
Virtual Meeting  

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE  
Monday, December 7, 2020  
2:30 – 3:30 p.m. ET / 1:30 – 2:30 p.m. CT / 12:30 – 1:30 p.m. MT / 11:30 a.m. – 12:30 p.m. PT  

ROLL CALL  

Marlene Caride, Chair  
New Jersey  

Bruce R. Ramge  
Nebraska  

Doug Ommen, Vice Chair  
Iowa  

Barbara D. Richardson  
Nevada  

Jim L. Ridling  
Alabama  

Chris Nicolopoulos  
New Hampshire  

Alan McClain  
Arkansas  

Linda A. Lacewell  
New York  

Trinidad Navarro  
Delaware  

Jon Godfread  
North Dakota  

Dean L. Cameron  
Idaho  

Tynesia Dorsey  
Ohio  

Vicki Schmidt  
Kansas  

Mark Afable  
Wisconsin  

James J. Donelon  
Louisiana  

NAIC Support Staff: Jennifer R. Cook/Jolie H. Matthews  

AGENDA  

1. Consider Adoption of its Nov. 10 and Summer National Meeting Minutes  
--- Commissioner Marlene Caride (NJ)  

2. Consider Adoption of its Working Group and Task Force Reports---Commissioner Marlene Caride (NJ)  
   a. Accelerated Underwriting (A) Working Group—Director Robert H. Muriel (IL)  
   b. Annuity Disclosure (A) Working Group—Mike Yanacheak (IA)  
   c. Annuity Suitability (A) Working Group—Commissioner Doug Ommen (IA)  
   d. Life Insurance Illustration Issues (A) Working Group—Richard Wicka (WI)  
   e. Life Insurance Online Guide (A) Working Group—Sarah Neil (RI)  
   f. Life Actuarial (A) Task Force—Mike Boerner (TX)  

3. Discuss Any Other Matters Brought Before the Committee---Commissioner Marlene Caride (NJ)  

4. Adjournment  

W:\National Meetings\2020\Fall\Agenda\A Cmte.docx
Page Intentionally Left Blank
Agenda Item #1

Consider Adoption of its Nov. 10 and Summer National Meeting Minutes
—Commissioner Marlene Caride (NJ)
The Life Insurance and Annuities (A) Committee met Nov. 10, 2020. The following Committee members participated: Marlene Caride, Chair, (NJ); Doug Ommen, Vice Chair (IA); Jim L. Ridling represented by Steve Ostlund (AL); Alan McClain (AR); Trinidad Navarro represented by Fleur McKendell (DE); Dean L. Cameron (ID); Vicki Schmidt (KS); James J. Donelon (LA); Jon Godfread (ND); Bruce R. Ramge (NE); Barbara D. Richardson (NV); Bill Carmello (NY); Tynesia Dorsey (OH); and Mark Afable (WI). Also participating were: Elizabeth Kelleher Dwyer (RI); and Mike Boerner (TX).

1. Adopted Revisions to Model #805

Mr. Boerner explained that the revisions to the Standard Nonforfeiture Law for Individual Deferred Annuities (#805) arise out of concern with the 1% minimum nonforfeiture rate, which is difficult for insurers to achieve in the current very low interest rate environment. He said these revisions address this concern by reducing the minimum nonforfeiture rate to 0.15%. He said industry supported dropping the minimum to 0%, but after several calls, the compromise of 0.15% was reached. He explained that the minimum of 0.15% does not prohibit a company from guaranteeing more than that.

Superintendent Dwyer explained that the Interstate Insurance Product Regulation Commission (Compact) references Model #805 in the Core Standards for Individual Deferred Non-Variable Annuity Contracts. In the event that the NAIC adopts the revisions, it takes immediate effect under the operations of the Uniform Standards, as this is the referenced model with respect to the applicable nonforfeiture rate. This is concerning to several states, as some states may not enact the amendment in their statutes and others may not be able to do it in this session or the next. In addition, the Colorado Supreme Court opinion from April, holding that a Compact standard cannot overrule a conflicting state law, has some states concerned with this implementation gap. Superintendent Dwyer said she wants to make sure states are aware and that the Compact plans to work with compacting states to address this issue.

Commissioner Ommen and Commissioner Afable said they share the concerns raised by Superintendent Dwyer. Commissioner Ommen said he supports the substance of the revisions and will be working with his legislature to make the changes in Iowa. Mr. Carmello said New York is opposed to the revisions to Model #805 because these products can have very high surrender charges, and when coupled with the reduced minimum, they are not comfortable.

Director Cameron asked about the urgency to adopt the revisions at this meeting and whether it made sense to delay adoption until a solution could be worked out at the Compact. Mr. Boerner said it is his understanding that insurers are having to withdraw a number of annuity products due to the financial strain caused by the 1% minimum in this current very low interest rate environment. Paul S. Graham (American Council of Life Insurers—ACLI) confirmed what Mr. Boerner said. Mr. Graham said the ACLI is committed to helping get the legislation passed in the states once it is adopted by the NAIC. He reiterated that certain products will not be available without this change, and he encourages the adoption of these revisions as soon as possible so the ACLI can help get state legislatures ready to adopt the revisions as early in 2021 as possible.

Commissioner Schmidt made a motion, seconded by Commissioner Donelon, to adopt the revisions to Model #805. The motion passed with Nevada and New York dissenting.

2. Adopted the 2021 GRET

Mr. Boerner explained that the Generally Recognized Expense Table (GRET) is updated by the Society of Actuaries (SOA) every year, and it is adopted by the Committee and NAIC membership. He said the GRET is referenced in the Life Insurance Illustrations Model Regulation (#582) to be used as assumed experience in illustrations, and it is used by 25–28% of companies.

Commissioner Ommen made a motion, seconded by Director Cameron, to adopt the 2021 GRET (see NAIC Proceedings—Fall 2020, Life Actuarial (B) Task Force). The motion passed unanimously.
3. **Adopted Revisions to AG 49**

Mr. Boerner explained that the revisions to *Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest* (AG 49) are to coordinate the effective date of AG 49 with the effective date of the updated *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest Sold On or After Dec. 14, 2020* (AG 49-A), which was adopted by the NAIC at the Summer National Meeting. AG 49 will apply to policies issued before Dec. 14, and AG 49-A will apply to policies issued after that date. Companies may choose to follow AG 49-A for policies issued before Dec. 14. Mr. Carmello explained that New York opposes the revision to be consistent with its previous opposition to AG 49.

Mr. Ostlund made a motion, seconded by Director Ramge, to adopt the revisions to AG 49 (*see NAIC Proceedings – Fall 2020, Executive (EX) Committee and Plenary, Attachment 44*). The motion passed with New York dissenting.

4. **Adopted a Technical Change to AG 49-A**

Mr. Boerner explained that the technical change to AG 49-A is intended to coordinate with the effective date in AG 49, and it applies to policies issued on or after Dec. 14. This timing needs to be adjusted from the date anticipated when it was adopted at the Summer National Meeting because the Fall National Meeting date was changed. Mr. Carmello said New York opposes this technical revision to be consistent with its previous opposition to AG 49-A.

Director Ramge made a motion, seconded by Commissioner Donelon, to adopt the technical change to AG 49-A (*see NAIC Proceedings – Fall 2020, Executive (EX) Committee and Plenary, Attachment 44*). The motion passed with New York dissenting.

5. **Adopted the Life Actuarial (A) Task Force’s 2021 Proposed Charges**

Mr. Boerner explained that the Life Actuarial (A) Task Force’s charges were updated to reflect the completion of AG 49 and AG 49-A, and adjustments were made to the timelines for some subgroups. He said an important new charge was added to “[w]ork with the selected vendor to develop and implement a new economic scenario generator (ESG) for use in regulatory reserve and capital calculations.”

Commissioner Ommen made a motion, seconded by Director Cameron, to adopt the Life Actuarial (A) Task Force’s 2021 proposed charges (*see NAIC Proceedings – Fall 2020, Executive (EX) Committee and Plenary, Attachment 44*). The motion passed unanimously.

6. **Adopted its 2021 Proposed Charges**

Commissioner Caride explained that the Life Insurance and Annuities (A) Committee’s 2021 proposed charges are unchanged from its 2020 charges. She said the Committee will likely revisit and make amendments to the charges in the coming months. She said she was asked to chair the Committee for the few months until the new year, and there are a lot of issues to consider. She said Birny Birnbaum (Center for Economic Justice—CEJ) is presenting to the Committee, and he suggested some changes to the charges. She said with the coronavirus resurging in many states, it makes sense for the Committee to take time to consider any changes, and the Committee will plan to consider amending the charges, likely in the new year.

Director Ramge made a motion, seconded by Commissioner Schmidt, to adopt the Life Insurance and Annuities (A) Committee’s 2021 proposed charges (Attachment One-A). The motion passed unanimously.

7. **Heard a Presentation on Re-Engineering Life and Annuity Illustrations and Disclosures**

Mr. Birnbaum gave a presentation on re-engineering life and annuity illustrations and disclosures. He said there are many NAIC models and actuarial guidelines that touch on illustrations, disclosures and advertising, such as the *Life Insurance Disclosure Model Regulation* (#580), Model #582, the *Annuity Disclosure Model Regulation* (#245), AG 49, and AG 49-A. He said each of these models and guidelines has a purpose to inform and guide consumers, but the promise of their purposes has not been realized.

Mr. Birnbaum said the current practice of marketing and illustrating investment-type life and annuities fails to meet the purposes outlines in each model. He said illustrations obscure the operation of the policy, present misleading information about risk and...
return, and create unrealistic expectations for consumers about policy accumulation values. He said products and related illustrations are relying more and more on the use of custom indexes produced by data mining historical results resulting in: 1) back-testing, not permitted for any other type of investment product, based on hypothetical results before the index was created; and 2) conflicts of interest created when the provider of the index is also providing the hedging program to support the insurers’ products.

Mr. Birnbaum outlined the concepts that need to be implemented to re-engineer illustrations. He said illustrations need to: 1) provide a simpler explanation about how the product operates; 2) include apples to apples comparisons of product accumulation with alternative investments; 3) show the cost and value of insurance; 4) show meaningful measures of risk and return; and 5) set realistic expectations for policyholders. In addition, he said consumer protection and fair competition measures need to occur, including: 1) encouraging product and insurer competition, while discouraging illustration competition; 2) discouraging product design to juice illustrations; 3) prohibiting back-testing; 4) prohibiting index providers from providing the hedging program to support the product using that index; 5) prohibiting indexes that are not transparent and allowing the consumer to independently verify the stated results; 6) finishing life insurance policy overview work in the Life Insurance Illustration Issues (A) Working Group and creating similar policy overviews for annuities; and 7) providing a buyer’s guide and policy overview prior to purchase.

Mr. Birnbaum said a chart may be a possible way to explain how a product operates by showing how a product would operate in key areas—i.e., value at start, changes in value with policy features, changes in value from fees or charges, and product value at the end of the period—in different interest rate environments (e.g., index increases by 3%, index increases by 15%, index stays the same, index decreases by 3%, and index decreases by 15%). He said a similar chart could compare the same changes in the value under the varying index interest rates for particular policy features, like participation rates, multipliers, caps or floors to show how each product feature may affect the account value calculation.

Mr. Birnbaum said illustrations should show meaningful measures of risk and return, including: 1) an explanation that changes in the product’s account value are tied to changes in the index; 2) how long the index has been in existence; 3) a comparison of the index to the Standard & Poor’s 500 index (S&P 500); 4) an explanation of why a comparison to the S&P 500 is meaningful in showing the value in the insurance as opposed to investing in the market directly; 5) mention of possible tax advantages; 6) a statement that past performance is not a guarantee of future outcomes; and 7) a chart of the historical performance of the product compared to the S&P 500 over the worst and best one, five and 10 year time frames.

Mr. Birnbaum showed an example of a graphic representation in an insurer’s marketing materials that presented a picture that he said was deceptive and misleading. He said the benefits of purchasing an insurance product as opposed to investing directly in the S&P 500 should be explicitly listed—i.e., protection against loss when the market or investments go down, tax advantages, death benefit, etc.—as well as the cost of insurance; i.e., percentage of the return, annual charges, early withdrawal penalties, and other costs and charges.

Mr. Birnbaum suggested that in support of the re-engineering of life and annuity illustrations, the Life Insurance and Annuities (A) Committee should: 1) establish a charge and working group to re-engineer life and annuity illustrations and disclosure, including the convergence of illustration concepts for life and annuities; 2) complete the life insurance policy overview project currently underway in the Life Insurance Illustration Issues (A) Working Group and develop similar brief product overviews for annuities; 3) stop the work of the Annuity Disclosure (A) Working Group pending the recommendations and work product of the illustration re-engineering effort; 4) complete the work of the Life Insurance Online Guide (A) Working Group and develop a similar online guide for annuities; and 5) consumer test life and annuity illustrations and disclosures.

Commissioner Oommen asked whether Mr. Birnbaum is aware of any consumer testing of illustrations or research that has already been done that looks at consumer understanding in this area. Mr. Birnbaum said there has been consumer testing of consumer disclosures involving other financial products by the U.S. Securities and Exchange Commission (SEC) and the Consumer Financial Protection Board (CFPB), but he is not aware of any consumer testing in this area.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.
Draft Pending Adoption

Date: 8/19/20

Life Insurance and Annuities (A) Committee
Virtual Summer National Meeting
August 11, 2020

The Life Insurance and Annuities (A) Committee met via conference call Aug. 11, 2020. The following Committee members participated: Jillian Froment, Chair, and Peter Weber (OH); Marlene Caride, Vice Chair, represented by Philip Gennace (NJ); Jim L. Ridling and Steve Ostlund (AL); Trinidad Navarro (DE); Doug Ommen and Mike Yanacheak (IA); Dean L. Cameron (ID); James J. Donelon (LA); Jon Godfread (ND); Bruce R. Rame (NE); Chris Nicolopoulos represented by Roni Karnis (NJ); Barbara D. Richardson (NV); Linda A. Lacewell represented by William Carmello (NY); and Mark Afable and Richard Wicka (WI). Also participating were: David Altmair (FL); Robert Muriel (IL); Sharon P. Clark (KY); Chlora Lindley-Myers (MO); Mike Causey (NC); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); and Raymond G. Farmer (SC).

1. Adopted its July 10 Minutes

The Committee met July 10 and took the following action: 1) adopted its Dec. 30, 2019, and Dec. 8, 2019, minutes; 2) adopted technical revisions to Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model 830) (AG 48); 3) adopted Valuation Manual amendments; and 4) adopted Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49-A).

Commissioner Donelon made a motion, seconded by Commissioner Godfread, to adopt the Committee’s July 10 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Reports of its Working Groups and Task Force

a. Accelerated Underwriting (A) Working Group

Director Muriel said the Accelerated Underwriting (A) Working Group met July 31. During its meeting, the Working Group took the following action: 1) adopted its March 12, Feb. 20, Feb. 2, Jan. 23, and 2019 Fall National Meeting minutes; and 2) heard an update presentation, including a summary of the process that has been followed, some of the lessons learned, and the timeline for completion of its charge.

b. Annuity Disclosure (A) Working Group

Mr. Yanacheak said the Annuity Disclosure (A) Working Group met March 13. He said the Working Group has not met since March because Working Group members have been focused on issues related to the pandemic in their own states. He said during its March 13 meeting, the Working Group took the following action: 1) continued to discuss revisions to the Annuity Disclosure Model Regulation (#245); 2) adopted revised language clarifying what financial instruments are included in an index, each of which has to have been in existence for at least 15 years; and 3) identified a few additional issues that it wants to address prior to bringing the revisions to the Committee. First, the Working Group would like to include some plain language revisions to the disclosure requirement in Section 6G. The second and third issues revolve around whether the Working Group wants to make recommendations to the Committee related to whether there is a need for product approval standards for proprietary indices and whether there needs to be standards surrounding the relationship between the hedging provider and the index provider. Mr. Yanacheak said the Working Group is close to finishing the revisions to Model #245, and it requested an extension of the Request for NAIC Model Law Development in order for the Working Group to finish its work by the Fall National Meeting. Commissioner Ommen spoke in support of giving the Working Group additional time. He made a motion, seconded by Commissioner Godfread, to extend the Request for NAIC Model Law Development until the Fall National Meeting.

c. Annuity Suitability (A) Working Group

Commissioner Ommen said the Annuity Suitability (A) Working Group met July 29. During this meeting, the Working Group took the following action: 1) adopted its 2019 Fall National Meeting minutes and Dec. 19, 2019, minutes; and 2) heard an update from Idaho, Iowa, Kentucky, Ohio and Rhode Island on their efforts to adopt the revised Suitability in Annuity Transactions Model Regulation (#275), including any issues they had encountered.
Draft Pending Adoption

Commissioner Ommen said the Working Group discussed its work for 2020 and agreed to develop a frequently asked questions (FAQ) document to assist the states as they move forward with adopting the revised Model #275 and implementing its provisions in fulfillment of the second part of its charge to “consider how to promote greater uniformity across NAIC-member jurisdictions.” He said the Working Group decided a draft FAQ document would be developed and exposed for a 30-day public comment period to solicit any additional questions to add to the document. He said the Working Group plans to meet via conference call in September to discuss any comments received.

d. Life Insurance and Illustration Issues (A) Working Group

Mr. Wicka said the Life Insurance Illustration Issues (A) Working Group met July 24, after not having met since before the 2019 Fall National Meeting. He explained that, like everyone else, the Working Group member’s attention was focused on addressing pandemic-related issues in their home states. He during its July 24 meeting, the Working Group reviewed two alternate versions of revisions to the Life Insurance Disclosure Model Regulation (#580). He said one version retains the current time frame for delivery of the policy overview at the same time as the buyer’s guide (either at the time of application or at the time of policy delivery if there is a free look period). The other version has the policy overview delivered at the time of application.

Mr. Wicka said the Working Group also reviewed two alternate versions of the sample policy overview for term life insurance policies. One version shows the sample pre-underwriting, the other after underwriting. He said the Working Group requested comments on the sample policy overview by Aug. 28. He said the Working Group plans to have a conference call to discuss the comments received and make any adjustments to the sample. He said the Working Group plans to develop sample policy overviews for whole life and universal life, which will be exposed for comment in the future. He said he feels like the Working Group is making good progress, and he would like to request an extension of the Request for NAIC Model Law Development, so the Working Group can finish up its work.

e. Life Actuarial (A)Task Force

Mr. Weber said the Life Actuarial (A) Task Force met Aug. 6, Aug. 4 and Aug. 3. He said during these meetings, the Task Force adopted its June 25, June 18, June 11, June 4, May 28, May 21, May 14 and May 7 minutes, which included the following actions: 1) adopted its Feb. 27, Feb. 20, Feb. 13, Feb. 6, Jan. 30 and Jan. 23 minutes; 2) adopted changes to the Standard Nonforfeiture Law for Individual Deferred Annuities (#805); 3) adopted amendment proposal 2020-05, which modifies the net premium reserve (NPR) to reflect continuous deaths and immediate payment of claims; 4) adopted Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold After November 25, 2020 (AG 49-A); 5) adopted amendment proposal 2020-06, which establishes a process for replacing the London Interbank Offered Rate (LIBOR); and 6) adopted amendment proposal 2020-07, which modifies VM-02, Minimum Nonforfeiture Mortality and Interest of the Valuation Manual by replacing the fixed 4% floor for the life minimum nonforfeiture interest rate with a reference to the rate used to determine the minimum funding for the cash value accumulation test in Internal Revenue Code § 7702 that will serve as the floor, as previously intended, but it will change as appropriate if this § 7702 rate changes.

Mr. Weber said the Task Force heard an update on the results of the yearly renewable term (YRT) field test modeling and range of interpretation survey from the American Academy of Actuaries (Academy) YRT Field Test Project Oversight Work Group, Oliver Wyman, and NAIC staff. He said the Task Force also discussed proposed changes to the Model #805 nonforfeiture interest rate floor. The Task Force agreed to expose Section 4B of the model with various nonforfeiture rate floor options between one half of one percent (0.5%) and zero percent, inclusive.

Mr. Weber said the Task Force heard an update from the Academy Annuity Reserves Work Group (ARWG) on the proposed timeline and approach for the development of a principle-based reserving (PBR) framework for non-variable annuities; and it adopted the report of the VM-22 (A) Subgroup, including its July 15, July 1, June 11 and May 20 minutes. He said the Task Force also heard an update from the Interstate Insurance Product Regulation Commission (Compact); and it adopted reports from the Longevity Risk (E/A) Subgroup, the GI Life Valuation (A) Subgroup, the Experience Reporting (A) Subgroup, and the IUL Illustration (A) Subgroup, including its June 2 and May 26 minutes.

Mr. Weber said the Task Force exposed the following amendment proposals: 1) 2019-33, which provides for the application of PBR requirements for group life insurance contracts with individual risk selection criteria issued under insurance certificates; 2) 2020-03, which clarifies that exact calculations for the NPR are allowed; and 3) 2019-34, which affirms that policies subject to the Standard Valuation Law (#820), prior to becoming parties to modified coinsurance (mod-co) agreements, are still subject
Draft Pending Adoption

to Model #820 after entering the mod-co agreements, and it provides guidance related to the actuarial opinion and asset adequacy analysis.

Mr. Weber said the Task Force exposed the 2021 Generally Recognized Expense Table (GRET) recommendation and heard an update from the Society of Actuaries (SOA) on research and education. He said the SOA update of 2020 Life Mortality Improvement Factors was exposed, and the Task Force heard updates from the Academy PBR Governance Work Group and Council on Professionalism.

Commissioner Donelon made a motion, seconded by Director Ramge, to adopt the reports of: the Accelerated Underwriting (A) Working Group (Attachment Two), including its March 12 (Attachment Two-A), Feb. 20 (Attachment Two-B), Feb. 6 (Attachment Two-C), Jan. 23 (Attachment Two-D), and Dec. 8, 2019, (see NAIC Proceedings – Fall 2019, Life Insurance Annuities (A) Committee, Attachment One) minutes; the Annuity Disclosure (A) Working Group, including its March 12 minutes (Attachment Three) and an extension of the Request for NAIC Model Law Development; the Annuity Suitability (A) Working Group (Attachment Four); the Life Insurance Illustration Issues Working Group, including an extension of the Request for NAIC Model Law Development; and Life Actuarial (A) Task Force. The motion passed unanimously.

3. Discussed Next Steps for the Life Insurance Online Guide (A) Working Group

Director Froment reminded the Committee of the genesis of the Life Insurance Online Guide (A) Working Group. She explained that the Working Group came out of the work of the Life Insurance Buyer’s Guide (A) Working Group. That Working Group developed a two-page guide to life insurance. But the Working Group also recognized that there is a lot more information about life insurance that would be useful for consumers to know than what made sense to include in a two-page Life Insurance Buyer’s Guide. Director Froment said there was also information at that time on the NAIC website, under Insure U. This lead to the formation of the new Life Insurance Online Guide (A) Working Group with the charge to “[d]evelop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public.”

Director Froment said this Working Group was originally chaired by Mary Mealer (MO), and it is currently chaired by Sarah Neil (RI). Director Froment said that while this Working Group has made progress in identifying topics and working on language, the number of Working Group members has declined and the Working Group has encountered difficulty making progress on the design and function of the Buyer’s Guide in an online format. Director Froment said the most likely explanation for this is that online design and computer applications are not the areas of expertise of the participants on this group.

Director Froment said she has spoken Ms. Neil about taking a bifurcated approach to moving this project forward. She said first, she would like for the Working Group to focus on finishing the substance of the online guide. Next, she said she would like for the Working Group to enlist the expertise of the NAIC Communications Division, which is currently working on a re-branding of the NAIC Website. She said Jennifer Cook (NAIC) has had conversations with the NAIC Communications Director, Laura Kane, who has expressed her willingness to assist with the project. She said Ms. Cook, in the coming weeks, will send an email to Committee members describing its work plan going forward and to seek additional state insurance regulator members to be on the Working Group.

4. Discussed next steps for the Retirement Security (A) Working Group

Director Froment said she would like to see the Retirement Security (A) Working Group make significant progress in the coming months. She said our recent experiences with the pandemic have only highlighted the critical importance of retirement security. She reminded the Working Group that during the latter part of 2019, Commissioner Taylor had, before leaving the DC Department of Insurance, heard presentations from a number of groups that were active in the area of retirement security, to learn about what they were doing. He also had requested comments on a draft work plan and received significant feedback.

Director Froment said in order to move forward, this Working Group needs a chair and some additional members. She said she has reviewed the comments on the work plan, and suggests revising it in response to those comments to 1) narrowly focus on areas where the NAIC and insurance regulators have expertise; and 2) leverage the extensive work of our many partners on this topic. She said she does not anticipate that this project will be overly burdensome, especially once a final work plan is in place. She said she would like to receive comments from regulators and interested parties on a revised work plan, as well as provide an opportunity for additional volunteers to join this Working Group. She said she does not anticipate that this project will be overly burdensome, especially once a final work plan is in place. She said if there are no volunteers to chair the group, Ohio is willing, but she would be happy to step aside if another state were interested in chairing this effort.
Draft Pending Adoption

She asked Committee members, or members of their staff, to please email David Torian (NAIC) with their interest to chair or be a member of this Working Group. She said Mr. Torian would be sending an email to Committee members in the coming weeks that will include a revised work plan with a deadline to submit comments.

5. **Discussed Reviewing the Design and Guidance for Life Insurance and Annuities Illustrations**

Director Froment explained that this topic is on the Committee agenda because of the conversations that occurred on the Life Insurance and Annuities (A) Committee July 10 conference call. She said part of the discussion that preceded the adoption of AG 49-A revolved around issues raised in a comment letter submitted by Birny Birnbaum (Center for Economic Justice—CEJ.) She said Mr. Birnbaum’s comment letter is posted on the Committee page on the NAIC website in the materials for the July 10 conference call. She said that Mr. Birnbaum has also submitted a comment letter to Plenary, as AG 49-A is being considered for adoption at the upcoming Plenary meeting. She mentioned that Mr. Birnbaum inquired whether the Committee would reconsider the adoption of 49-A, however, that is not procedurally possible. She explained that AG 49-A is now before Plenary, for its consideration and they are the appropriate group to consider the issues raised by Mr. Birnbaum in his submitted comment letter.

Director Froment said that the adoption of AG 49-A is an important first step in addressing some concerns with IUL illustrations involving multipliers, The Committee agreed to discuss the larger issues raised in the CEJ comment letter regarding all illustrations, as well as discuss perhaps having a new charge. She explained that the regulatory framework has evolved over time and naturally has evolved as we have addressed specific issues or concerns. She said that regulators have to react to new concerns or products by trying to adapt our existing framework to the issue before us. She said that this can sometimes cause unintended consequences or leave gaps in the guidance.

Director Froment said she would like to reiterate her suggestion from the July 10 conference call, that there may be a need to look closely at the current design and regulation framework for life insurance and annuity illustrations and determine what, if any, changes or additions may be needed. She said she did not have a charge to suggest at this time, but wanted to take this first more formal step of placing the issue on the agenda and starting the discussion. Because the virtual meeting format does not allow for input from audience members, Director Froment said she would schedule a follow-up call in the near future to discuss a possible charge in more detail, including where that charge most likely belongs.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.

W:\National Meetings\2020\Summer\Cmte\A\8-ACmte final.docx
Agenda Item #2

Consider Adoption of its Working Group and Task Force Reports
—Commissioner Marlene Caride (NJ)
Agenda Item #2a

Accelerated Underwriting (A) Working Group Report

—Director Robert H. Muriel (IL)
Virtual Meeting

ACCELERATED UNDERWRITING (A) WORKING GROUP
November 17, 2020
12:00 - 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT/ 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

Summary Report

The Accelerated Underwriting (A) Working Group met Nov. 17, 2020. During this meeting, the Working Group:

1. Adopted its 2020 Summer National Meeting Minutes, which included the following action:
   a. Heard a presentation on the work of the Working Group, including the process that has been followed, some of the lessons learned, and the timeline for completion of its charge.

2. Heard progress updates from the Ad Hoc Liaison Subgroup and the Ad Hoc Drafting Subgroup.

3. The Ad Hoc Drafting Subgroup will continue to work on an educational report that offers guidance to regulators and not to pursue the development of a model law at this time.

4. Shared draft outline. Not exposing for a formal comment period but feedback regarding items that may be missing from the outline can be sent to David Torian at dtorian@naic.org and Jennifer Cook at jcook@naic.org.

w:\national meetings\2020\fallsummaries\final\AUWG.docx
The Accelerated Underwriting (A) Working Group of the Life Insurance and Annuities (A) Committee met Nov. 17, 2020. The following Working Group members participated: Robert H. Muriel, Chair, (IL); Grace Arnold, Vice Chair (MN); Jason Lapham (CO); Russ Gibson (IA); Rich Piazza (LA); Cynthia Amann (MO); Ross Hartley (ND); Rhonda Ahrens and Laura Arp (NE); Lori Barron (OH); Elizabeth Kelleher (RI); Lichiou Lee (WA); and Mark Afable (WI). Also participating were: Steve Ostlund (AL); Vanessa Darrah (AZ); Perry Kupferman (CA); Andrew Greenhalgh (CT); Karl Knable (IN); Brenda Johnson (KS); Nour Benchaaboun (MD); Karen McCallister (NH); Mona Bhalla (NY); and Tomasz Serbinowski (UT).

1. **Adopted its Summer National Meeting Minutes**

Commissioner Arnold made a motion, seconded by Commissioner Afable, to adopt the Working Group’s July 31 minutes (see *NAIC Proceedings – Summer 2020, Life Insurance and Annuities (A) Committee, Attachment XX*). The motion passed unanimously.

2. **Heard an Update on the Work of the Ad Hoc Liaison Group**

Ms. Amann, Ad Hoc Liaison Group chair, said the members of the Ad Hoc Liaison Group are Illinois, Nebraska, Rhode Island and Washington, and the interested state insurance regulators who participate are Idaho, Indiana, Kansas and Minnesota.

Ms. Amann said the Ad Hoc Liaison Group discussed how it can provide information to the Ad Hoc Drafting Group. Each group member volunteered to keep track of an NAIC group and update the information in the regulator-only collaboration space. She said the Ad Hoc Liaison Group developed a catalog of the presentations made to the Working Group to date. She said the catalog will provide a good reference point, and that Artificial Intelligence (AI) Principles, in particular, will be useful. She said a request was made to the NAIC Research Division to search *NAIC Proceedings* for key search terms, and those will be summarized.

3. **Heard an Update on the Work of the Ad Hoc Drafting Group**

Commissioner Arnold said the members of the Ad Hoc Drafting Group are Connecticut, Colorado, Iowa, Illinois, Missouri, North Dakota and Wisconsin, and the interested state insurance regulators who participate are Nebraska, New Hampshire and New York.

Commissioner Arnold said the Ad Hoc Drafting Group discussed what kind of work product the Working Group should develop. She said the Ad Hoc Drafting Group discussed a number of topics to cover in the work product, including that: 1) the work product should convey key information from the presentations—information that would be helpful to state insurance regulators looking at accelerated underwriting programs; 2) the work product should highlight issues that state insurance regulators should be aware of, including consumer concerns; 3) the work product should acknowledge existing laws and identify any gaps; and 4) the work product should offer some guidance to state insurance regulators—not a model law, but key principles or possibly best practices. Commissioner Arnold said the Ad Hoc Drafting Group coalesced around the development of an educational report that explores accelerated underwriting in life insurance and offers guidance to state insurance regulators, industry, and consumer advocates and other stakeholders. She said the Ad Hoc Drafting Group developed a draft outline, which it has circulated to the Working Group.

Commissioner Arnold said if the Working Group agrees, the Ad Hoc Drafting Subgroup will continue to develop language to share with this group as it continues. She said any comments on the general direction or specific items that are missing from the outline could be sent to Jennifer Cook (jcook@naic.org) and David Torian (dtorian@naic.org). Director Muriel asked if there were any comments on the work of either the Ad Hoc Liaison Group or the Ad Hoc Drafting Group. He also asked if there were any other issues the Working Group would like to discuss. No comments were heard.

Having no further business, the Accelerated Underwriting (A) Working Group adjourned.
The Accelerated Underwriting (A) Working Group of the Life Insurance and Annuities (A) Committee met July 31, 2020. The following Working Group members participated: Robert H. Muriel, Chair, Bruce Sartain, Vincent Tsang, Litza Mavrothalasitis and Jeff Varga (IL); Grace Arnold, Vice Chair (MN); Jason Lapham (CO); Doug Ommen, Russ Gibson, Lindsay Bates, and Mike Yanacheak (IA); Rich Piazza (LA); Cynthia Amann (MO); Chris Aufenthie, John Arnold and Ross Hartley (ND); Bruce R. Ramge, Rhonda Ahrens and Laura Arp (NE); Lori Barron (OH); Elizabeth Kelleher Dwyer, Matt Gendron and Sarah Neil (RI); Lichiou Lee (WA); and Mark Afsabe and Diane Dambach (WI). Also participating were: Katherina Hrouda, Lucy Jabourian, Ted Chang, and Camilo Pizarro (CA); Michele Mackenzie, (ID); Malinda Shepherd (KY); Robert Wake and Sandra Darby (ME); Karen Dennis, Kevin Dyke and Renee Campbell (MI); Bill Carmello, Michael Cebula, Marshal Bozzo, Matt Homer, My Chi To, Seema Shah, Sumit Sud and Avani Shah (NY); Cuc Nguyen (OK); Glenda Villamar (OR); and Doug Slape (TX).

1. **Adopted its March 12, Feb. 20, Feb. 6, Jan. 23, and 2019 Fall National Meeting Minutes**


2. **Heard an Update Presentation on the Work of the Working Group**

Director Muriel said the rest of this meeting is going to be an update presentation on the progress of the Working Group. He said he is going to review the process the Working Group is following, and Mr. Tsang will review some of the highlights of the information shared with the Working Group.

Director Muriel explained that the Working Group was formed by the Life Insurance and Annuities (A) Committee at the 2019 Summer National Meeting. He said the Working Group was charged to “[c]onsider the use of external data and data analytics in accelerated life underwriting, including consideration of the ongoing work of the Life Actuarial (A) Task Force on the issue and, if appropriate, drafting guidance for the states.” He said there are 12 members on the Working Group: himself as chair, Ms. Arnold as vice chair, Colorado, Iowa, Louisiana, Missouri, Nebraska, North Dakota, Ohio, Rhode Island, Washington and Wisconsin.

Director Muriel said the Working Group held its first coordinating conference call Oct. 2, 2019, and it developed a three-phase work plan. He explained that the first phase is information gathering, the second phase will focus on identifying the issues and deciding on a work product, and the last phase will focus on putting pen to paper. He said the Working Group hopes to have a first draft of its work product by the end of this year, with a final product to the Life Insurance and Annuities (A) Committee by the 2021 Summer National Meeting.

Director Muriel said the Working Group has met 16 times, including its current meeting. He said six of those meetings were held in regulator-to-regulator session pursuant to paragraph 3 of the NAIC Policy Statement on Open Meetings (specific companies, entities of individuals) when requests were made to share information involving particular companies or company-specific proprietary intellectual property. He said the Working Group’s goal is to maintain as open a process as possible, and it even held both open and regulator-to-regulator session with the same presenters.

Director Muriel said the Working Group has heard presentations from: 1) insurance companies about their accelerated underwriting programs and practices; 2) consulting firms about their experience in assisting companies to build and review accelerated underwriting programs (Deloitte, Risk & Regulatory Consulting LLC, and Milliman); 3) a consumer advocate about consumer concerns regarding the use of accelerated underwriting from a fairness perspective (Center for Economic Justice—CEJ); 4) the American Academy of Actuaries (Academy) about accelerated underwriting from an actuarial perspective; 5) lawyers from two Illinois law firms about data collection and privacy from a legal standpoint (Foley & Lardner LLP and Edelson PC); and 6) a machine learning assurance company about its experience in assisting companies to establish controls and audits for artificial intelligence (AI) (Monitaur).

© 2020 National Association of Insurance Commissioners
Director Muriel explained the next steps that the Working Group plans to follow. He said the Working Group plans to form two ad hoc subgroups. He said one is called the Ad Hoc Liaison Subgroup, which will focus on coordinating with the all the other NAIC groups that are looking at related issues; and the other is called the Ad Hoc Drafting Subgroup, which will focus on synthesizing information and making a recommendation to the Working Group on a work product.

Director Muriel said he expects that the Working Group will grapple with the answers to at least three questions: 1) whether consumers understand what information can be collected about them and how it can be used; 2) how accelerated underwriting fits into the narrative of avoiding the unfair discrimination of protected classes; and 3) whether the results of accelerated underwriting are transparent to consumers. He said the Working Group plans to have a few more presentations over the next month or so and have a first draft to expose for comment by the end of December. He said a final product should be ready for the Life Insurance and Annuities (A) Committee by the 2021 Summer National Meeting.

Mr. Tsang explained that accelerated underwriting is an emerging platform; and traditional underwriting is still the norm for most applications. He said companies are pursuing accelerated underwriting because it offers many attractive business incentives, such as the potential to save on underwriting expenses, especially for low premium policies like term life insurance, where it can take companies several years to break even. Accelerated underwriting is also attractive to companies because when underwriting takes less time, companies can underwrite more policies. Life insurance applicants also benefit from accelerated underwriting because the process can be accomplished entirely online without any invasive blood tests.

Mr. Tsang mentioned that companies may give up important medical information in using accelerated underwriting, which may lead to higher mortality risk. He said, unlike traditional underwriting, which is based on the current underwriting manual, accelerated underwriting relies on the reasonableness of its algorithm. He said accelerated underwriting also requires companies to implement additional controls and documentation responsibilities, including disclosures to applicants who receive an adverse underwriting decision.

Mr. Tsang said the use of accelerated underwriting is increasing. He said currently, companies limit which products are eligible for accelerated underwriting; usually term policies with smaller death benefits and younger issue ages are eligible. He said applications outside these limits go through normal underwriting procedures. He said as more companies use accelerated underwriting, there is the expectation that they will also relax their current accelerated underwriting eligibility limitations and allow more applications to go through accelerated underwriting.

Mr. Tsang said with respect to the data used in accelerated underwriting, insurers have the sole responsibility to collect, scrutinize and analyze the input data to ensure that it is accurate. He said some companies, with the help of reinsurers, use third parties to collect data and provide an initial risk analysis. He said some accelerated underwriting programs “triage” applications into separate groups. He explained that under some accelerated underwriting programs, when an applicant is triaged as someone who should go through the remaining accelerated underwriting steps, the algorithm then assigns the applicant a risk score and recommends a risk class. He said a human underwriter reviews that recommendation and may request a blood or urine test even when the accelerated underwriting program recommends otherwise.

Mr. Tsang said the data collected for accelerated underwriting is normally a subset of traditional underwriting data, and it includes a mix of medical and behavioral data, such as: 1) data provided in the life application; 2) an attending physician statement; 3) prescription drug history; and 4) Medical Information Bureau (MIB) info. He said it is important to note that accelerated underwriting programs and its algorithms are assisting, not replacing, human underwriters by collecting data and performing an initial risk analysis.

Mr. Tsang explained that traditional underwriting is considered the “gold standard,” and each company expects its accelerated underwriting program to replicate the gold standard via back-testing. He said the interactions between the accelerated underwriting program and the human underwriter enable the algorithm to learn from its mistakes and improve via the machine learning process. He explained that back-testing may also identify isolated prior underwriting errors and provide valuable feedback to the human underwriter.

Mr. Tsang explained that accelerated underwriting algorithms are not static. He said most are on their second- or third-generation algorithm, and they continue to change through machine learning processes. He said insurers develop controls and documentation for the first-generation algorithms, but they sometimes place less emphasis on the controls and documentations for later generations. He said it is important that companies continue to perform the checks and balances on all generations of their accelerated underwriting programs. Besides medical data, some companies believe that behavioral data can also provide...
important information about an individual’s risk profile, especially for younger people. Some examples of the behavioral data collected are gym membership, profession, marital status, family size, shopping habits, wearables and credit scores.

Mr. Tsang said if behavioral data is not properly scrutinized, association may be confused with causation and lead to unfair adverse underwriting decisions. For example, a high-income individual is perceived as someone who has excellent medical care. However, a high-income individual may also have the resources for illegal drug use, or a healthy young couple may not have the dispensable income to join a gym but exercise on their own. In that case, lack of a gym membership should not indicate an increased mortality risk. He cautioned that behavioral data could lead to incorrect conclusions or unintended discrimination.

Mr. Tsang said the Working Group has spoken with only a few major life insurers about their current accelerated underwriting practices, so its findings are not conclusive. He said, generally, larger companies have resources to develop their own accelerated underwriting programs. Accelerated underwriting programs require plenty of resources, and they can be expensive.

Mr. Tsang said compliance with laws and regulations is the responsibility of a company’s chief risk officer (CRO), general counsel, and enterprise risk management committee. Smaller companies may not have the required resources to develop their own programs and rely on external consulting firms to monitor and build controls for their accelerated underwriting programs.

Mr. Tsang said insurers have high expectations for accelerated underwriting programs because of their potential to reduce human errors in data processing and allow human underwriters to spend more time on high value activities. He said the potential for savings is significant for low premium products, such as term insurance. The companies expect that the expense savings, along with the ability to issue more policies, compensates for the potentially higher mortality cost.

Mr. Tsang said based on a 2019 Society of Actuaries (SOA) “Accelerated Underwriting Practices Survey,” companies rely mostly on data in the application form and other medical-related data. Some companies also rely on other data such as motor vehicle records, criminal history, credit scores and financial data. Very few companies use data such as electronic health records, wearables and social media usage. Mr. Tsang said companies are currently using back-testing, random holdouts, post-issue monitoring and other techniques to examine the accuracy of accelerated underwriting programs. He said peer reviews are also used to test a program’s compliance with applicable laws and regulations.

Mr. Tsang said there are several federal laws that may affect accelerated underwriting programs, such as the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), which protects medical data privacy. There is the federal Fair Credit Reporting Act (FCRA), which protects credit data privacy and prohibits illegal use of credit data. Most recently, at the state level, there is the NY Circular Letter No. 1 issued in January 2019, which outlines the key compliance issues for accelerated underwriting; i.e., integrity of input data, transparency of algorithm, and adequate disclosure. There is also Florida House Bill 1189, which is the first state law that prohibits insurers from using genetic data for underwriting and pricing of life, disability and retirement products.

Mr. Tsang said credit data is not widely used in accelerated underwriting programs today, but that is likely to change over the next decade. He said credit data is popular among the companies that use it, like employers and banks, because it covers most Americans and the data is updated frequently. A few life insurers currently use credit data as an input item for their AU programs. Mr. Tsang said those companies have performed actuarial studies to justify its soundness, actuarially. He said a typical credit report contains about 800 attributes, which include a consumer’s employment history, mortgage payment history and rental payment history, among other things. Insurers only use about 50 out of the 800 attributes because many of these attributes are correlated with one another.

Mr. Tsang said using credit score data is controversial, as the distributions of credit scores are quite different among ethnic groups and there is not a lot of information on how companies document their monitoring and control processes for unlawful discrimination. He said the selected attributes are perceived as variables that explain the consumer’s behavior. He said the mortality hypothesis is that individuals with high credit scores are expected to have lower mortality risk profiles; but the correlation between mortality and credit score is not absolute. For example, having a high credit score does not shield a person from illness.

Mr. Tsang said it is easy to confuse association with causation. He said two items that behave in similar patterns does not mean that one is causing the other. He said while some companies consider credit score as a valuable input to explain mortality risk, some groups challenge this view due to the potential confusion of association with causation. He said credit scores should not be used in isolation, and checks and balances must be employed to minimize the occurrence of unintended discrimination.
against protected classes. He suggested that one possibility is to use credit data as a supplemental data point rather than a key input variable in order to use it as a check for a negative rather than a check for a positive.

Mr. Tsang said the FCRA protects consumers from illegal uses of their credit scores, and it allows consumers to see their data and challenge the data’s validity; however, the scope of FCRA is limited, and it does not cover personal information such as credit card purchases, social media usage and wearables. Consumers do not have an avenue to challenge the validity of non-FCRA data or any adverse decisions that may arise as a consequence. Currently, few companies use non-FCRA data, but this may change over time.

Mr. Tsang highlighted a few questions that state insurance regulators may want to consider, such as whether insurance regulations should be updated to disallow the use of non-FCRA covered data or to provide avenues for customers to challenge the validity of non-FCRA data and its adverse effects.

Mr. Tsang said Birny Birnbaum (CEJ) gave a presentation where he raised a number of concerns regarding the potential for adverse underwriting decisions to unfairly affect minorities. Mr. Birnbaum said: 1) the regulatory framework has failed to keep pace with the market in terms of using big data and AI; 2) the input data used by insurers may have inherited biases, which should be removed or controlled; 3) regulations should promote fairness, and underwriting decisions should not be justified solely on actuarial soundness; and 4) the life industry should promote availability and affordability of insurance products to protected classes and curtail any unlawful discrimination. Mr. Tsang said Mr. Birnbaum also provided some other suggestions, including requiring companies using accelerated underwriting to file their accelerated underwriting programs with state insurance regulators for review, which is consistent with the accelerated underwriting programs for auto and property insurance. Mr. Birnbaum also suggested extending FCRA-type protections to all input data for accelerated underwriting.

Ms. Shepherd asked whether companies are using accelerated underwriting currently. Mr. Tsang said there are large companies developing and using their own accelerated underwriting programs, and smaller companies are working with consultants or reinsurers to develop a template to modify and use. He said right now, about 10% of applications go through accelerated underwriting, but he expects that to increase to around 40% within the next decade.

Mr. Birnbaum asked about how the Ad Hoc Liaison Subgroup and the Ad Hoc Drafting Subgroup would be formed and report their work. Director Muriel said the membership for the subgroups is just getting established, but he assured Mr. Birnbaum that the subgroups would hold open meetings to discuss how to develop and report their work to the Committee.

Peter Kochenburger (University of Connecticut School of Law) asked how important it is for accelerated underwriting modelers to be able to plausibly provide a causation analysis as well as a correlation. Mr. Tsang said it is important that there be some reasoning and rationale provided for why one variable would be causing another, above and beyond observing a pattern or correlation between two variables.

Having no further business, the Accelerated Underwriting (A) Working Group adjourned.
Agenda Item #2b

Annuity Disclosure (A) Working Group Report
—Mike Yanacheak (IA)
The Annuity Disclosure (A) Working Group has not met since the Summer National Meeting. It last met via conference call on March 13. During this meeting, the Working Group:

1. Discussed outstanding issues and comments received on draft revisions to the *Annuity Disclosure Model Regulation* (#245):

2. Agreed that the Working Group was very close, but unable to reach consensus on revisions to Model #245.

An extension of the Request for NAIC Model Law Development is requested until the Life Insurance and Annuities (A) Committee reviews issues raised by interested parties and provides guidance.
The Annuity Disclosure (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call March 13, 2019. The following Working Group members participated: Mike Yanacheak, Chair, and Kim Cross (IA); Chris Struk (FL); Julie Holmes, Craig Van Aalst and Shannon Lloy (KS); Nour Benchaboun (MD); John Robinson (MN); Andrew Schallhorn and Cuc Nguyen (OK); Matt Gendron and Sarah Neil (RI); and Doug Danzeiser, Sandra Dodson and Lynn Pazdral (TX). Also participating were: Steve Ostlund (AL); Dave Lathrop (AZ); Carrie Couch and Marjorie Thompson (MO); Denise Lammy (NH); Andrew Dvorine (SC); David Hippen (WA); and Susan Ezalarab (WI).

1. **Adopted a Revision to Section 6F(9)(b)(i) of Model #245**

Mr. Yanacheak said that since the in-person Spring National Meeting has been postponed due to COVID-19, the Working Group finds itself with additional time to address any outstanding issues. He said that most of the Working Group members he has spoken with over the past few days think that the language in the Jan. 24 draft revisions to the *Annuity Disclosure Model Regulation (#245) (Attachment:?-A?)* could be improved. The American Council of Life Insurers (ACLI) submitted a comment letter on this draft. Robbie Meyer (ACLI) summarized the ACLI comment letter. She said the ACLI remains concerned with the language of Section 6F(9)(b)(i) in the draft, which states: “The index is a combination of indices, made up of stocks, bonds, futures, commodities, interest rates, or exchange traded funds, each of which has been in existence for at least fifteen (15) years.”

Ms. Meyer said ACLI is concerned that this language would inadvertently undercut robust and understandable disclosures for consumers. She said the language is ambiguous as to whether each listed component needs to have been in existence for 15 years and whether each of the listed components needs to be an indice. She said this requirement would prohibit illustration of many nontraditional indices of fixed indexed annuities that have been approved for sale and in the market and that are constructed from financial components, such as exchange-traded funds (ETFs) or futures, that are not indices. Ms. Meyer said the ACLI suggests the following revision: “The index is comprised of indices, stocks, bonds, futures, commodities, interest rates or exchange traded funds, each of which has been in existence for at least fifteen (15) years.”

The Working Group discussed the ACLI’s suggested revision to Section 6F(9)(b)(i). Mr. Robinson said he has discussed this issue with the ACLI, as has Mr. Benchaboun and Mr. Van Aalst. They all said they would support the ACLI language. Ms. Neil said she struggles with what steps are taken by companies to ensure that a consumer understands what goes into these indices. She said fixed indexed annuities (FIAs) typically attract a more traditional investor, but these types of indices contain elements that require a higher level of sophistication than a typical FIA. Mr. Robinson agreed that this is an issue and that maybe the Working Group should discuss how to tell the consumer about what makes up an index. However, he said he does not consider that question to be affected by the language change being discussed.

Mr. Schallhorn pointed out that there is a requirement to illustrate a high 10 years and a low 10 years, so consumers will be shown a possible upside and a downside. Ms. Neil explained that, in her view, if the suggested language opens up what financial products can comprise an index, she wants to be sure that proper steps are taken to ensure that consumers understand these financial products that comprise the index.

Birny Birnbaum (Center for Economic Justice—CEJ) followed up on Ms. Neil’s concerns and said the ACLI’s proposed revisions do more than simply say what financial products can be part of a index. He said this change allows the illustration of something that was not previously allowed to be illustrated because it had not been in existence for the requisite period of time. He said the biggest concern with this change is that it encourages data mining for certain historical results to create products that illustrate well. Mr. Birnbaum said there is no consumer demand for products with indices that consumers have never heard of and do not understand. He said just because a product is already in the marketplace does not mean it is a good product that should be illustrated. He said this language creates a situation that amounts to an invitation to data mine recent historical experience to produce a favorable illustration for the past 15 years, but it is not likely to produce the same results going forward. He said that is inherently misleading.

Mr. Birnbaum also said that the revisions allow for gaming of the illustration. He shared the following example to illustrate his point. He said if there is an index that is comprised of five financial instruments and only one of the instruments has been in
existence for only 15 years, while the rest have been in existence for 20 years, the illustration of the index will only look back 15 years. He said this allows for a company to create an index to limit the look back to 15 years when a look back to years 16–20 would harm the illustration. Mr. Birnbaum suggested that 6F(9)(b)(i) should be revised to require each financial instrument to have been in existence for at least 20, but preferably 30, years.

Ms. Meyer said the ACLI believes that customers understand these products. She conceded that it is difficult to ensure understanding, but the more information consumers get, the more likely it is they will understand. She said prohibiting the illustration of a number of products that are already in the marketplace is in conflict with consumer education. She said that if a product has been approved, it should be able to be illustrated. She said if there are issues with these products that have been approved, this project addressing illustrations is not the most effective context to address those concerns.

Mr. Birnbaum said the ACLI says it is committed to consumer understanding, but he questioned that assertion based on the ACLI’s opposition to other provisions in the model that would require disclosure to consumers about how the index is calculated. Mr. Birnbaum also said that the idea that more information is always better is false. More information does not equate to consumer understanding. He said consumers need information that will help them understand. He said illustrations are not needed to explain a product. He said illustrations create a false impression that past performance is an indication of future performance, which it is not. He said in this way, illustrations accomplish the opposite of consumer understanding. He said the goal is to stop misleading illustrations and force companies to explain their products in ways that consumers understand.

Mr. Birnbaum also said that the ACLI suggested revision is incorrect when it states that “[t]he index is comprised of indices, stocks, bonds, futures, commodities, interest rates, or exchange traded funds…” He said an index is not comprised of components, it tracks the performance of something. The Working Group discussed whether language that says “the index is an instrument that tracks the performance of indices, stocks, bonds, futures, commodities, interest rates or exchange traded funds…” is more accurate than saying the index is “comprised” of something. Mr. Robinson said Mr. Birnbaum’s suggested language speaks to what an index does, which is not a definition. He said that the language the ACLI suggested is an accurate way to describe an index—that the index is a weighted average of something, describes what it is, to say that it tracks something and describes what it does. Mr. Gendron said 6F(9)(b)(i) talks about a “combination of indices,” and 6F(9)(b) (iii) speaks to “any algorithm or other method of combining the indices,” which explains what it means to “combine” the indices. He conceded that these are not exactly definitions, but that is the practical effect, so he is OK with the language.

Mr. Benchaaboun pointed out that 6F(9)(b)(iv) states that the algorithm must be made available to insurance commissioners, which means that the insurance board will have the ability to approve the algorithm at the time of the product filing. Mr. Gendron said he is concerned with relying on the insurance commissioner’s ability to approve an algorithm at the time of filing. He said he is not aware of any insurance departments that have standards for reviewing indices. He said he asked the Interstate Insurance Product Regulation Commission (Compact), and he learned that it has form filing requirements but no vetting or standards by which indices are measured. Mr. Gendron said this is not something that can be fixed quickly. He suggested that the Working Group could make a recommendation to the Life Insurance and Annuities (A) Committee that such standards should be developed, but they do not exist right now. Mr. Struk said Florida is not a member of the Compact and does not have standards by which to judge whether an index is appropriate or inappropriate. Ms. Neil said forms are reviewed to make sure they comply with state law. She said it is her opinion that this is the appropriate place for a discussion about how these products are going to be sold to the public.

Mr. Hippen said when reviewing filings, his department attempts to stop companies from using an index that it believes controls or that it can tell from its construction could be easily manipulated by the company. He said, however, they are limited by how much and what kind of information the company provides.

Mr. Birnbaum summarized his view of how the revised provisions in the model allow for the creation of products that mislead consumers. He said first, there are the provisions that allow data mining to create bespoke indices that will illustrate favorably over the previous 15-year period. If the company sees that an index is not preforming well, the model allows it to tweak the indices. The company is not required to disclose to the consumer how the index is calculated, and overwhelmed insurance departments do not provide a lot of accountability. He also pointed out that there is no requirement that the index company be separate from the company that is providing the hedging for the product based on the index. The index provider can change its rules as long as it is consistent with its own governance procedures, with no review of those rules.

Bryan Pinsky (American International Group Inc.—AIG) said that the AIG is very supportive of consumer protection and making sure that illustrations and all the other materials provided to consumers at the point of sale are clear, understandable, fair and balanced. He said the purpose for revising Model #245 is to ensure that the regulation is pragmatic and usable, but
Mr. Pinsky explained that a lot of information is provided to consumers by their financial advisor that augments an illustration, such as marketing materials and fact sheets, that describe how the indices work. He said the reason that companies do not support providing the underlying algorithm and rule book to consumers is because they are not owned by the company and are not the insurance company’s intellectual property. He said these are indices created and provided by third parties, and they continue to own the intellectual property. He said the rule book is not going to help consumers or financial advisors understand the index. He said that understanding is provided by the simplified, fair and balanced marketing materials, fact sheets provided by the index provider, and an understanding of how the index works within the indexed annuity that it is being purchased with, which is in the illustration.

Mr. Pinsky said it is important to realize that clients cannot lose money when they buy an indexed annuity. He said consumers are not investing in the index; they are investing in a product that references the index for the sole purpose of determining what interest credit will be provided to the client. He said that while the mechanisms supporting the index are important, the exact mathematical nuances of the index are not the most important pieces of information for the client to understand. He said the most important thing for consumers is diversification in choice in the product. He these products were not developed to data mine for indices that illustrate most favorably; they are intended to provide diversification in choice for clients. He said because of how independent third parties are able to create these indices, they are generally able to provide a more stable crediting rate that the insurance companies are able to provide. He said no consumer is forced to buy or stay in these. He said clients in all indexed annuities can reallocate across different strategies or indices if they do not like what they have for whatever reason, or as their crediting strategies mature, at no cost. He said there are no facts to support the assertion that indices are changed to improve the look of performance. He said that sometimes indices are changed if there are new versions and that in new markets, environments may perform differently. He said that he is not sure of the reason for Mr. Birnbaum’s concern with the tie between index providers and hedging. He said there might be a circumstance where there is an arm of an investment bank that provides hedging assets to insurance companies and may also have another arm that creates indices. But he said that ultimately, the insurance company is accountable for ensuring that it is setting an appropriate option budget for its clients on indices that are available within the products provided to its clients.

Mr. Yanacheak identified three issues the Working Group’s discussion brought to light. The first is whether the Working Group should raise with the Life Insurance and Annuities (A) Committee the issue of the need for standards for product oversight in the states and with the Compact in the area of indexed annuities. He said the second issue involves the relationship between an index provider and the hedging provider. Iowa asked about this relationship in its product review and would like the Working Group to consider whether a referral to further consider this issue might be appropriate. The final issue is to revise Section 6F(9)(b)(i).

XX made a motion, seconded by xx, to revise Section 6F(9)(b)(i) as follows: “The index is comprised of indices, stocks, bonds, futures, commodities, interest rates, or exchange traded funds, each of which has been in existence for at least fifteen (15) years.” Florida, Kansas, Maryland, Minnesota, Oklahoma and Texas voted in favor of the motion. Rhode Island opposed the motion. The motion passed.

Mr. Gendron said he has been working on some plain language modifications to the disclosure requirements in Section 6G that he would like the Working Group to consider before it forwards the revisions to Model #245 to the Life Insurance and Annuities (A) Committee. Mr. Kilcoyne said he also has language modifications to suggest for the language just adopted. Additionally, Mr. Robinson said he has some wording changes he would like the Working Group to consider. The Working Group agreed to wait to finalize the model until after reviewing this revised language. Mr. Yanacheak asked for revisions to be emailed to his attention, with a copy to Jennifer Cook (NAIC). Mr. Yanacheak confirmed that if the American Academy of Actuaries (Academy) has any minor suggestions along the lines of what the Working Group members were discussing, it should submit them.

Having no further business, the Annuity Disclosure (A) Working Group adjourned.

W:\National Meetings\2020\Fall\Cmte\A\ADWG\Annuity Disclosure WG confcall 3-13-20 final.docx

© 2020 National Association of Insurance Commissioners
Agenda Item #2c

Annuity Suitability (A) Working Group Report
—Commissioner Doug Ommen (IA)
The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee has not met in an open meeting since the Summer National Meeting. During that meeting, the Working Group discussed a draft frequently asked questions (FAQ) document to assist the states as they move forward with adopting the revisions to the Suitability in Annuity Transactions Model Regulation (#275), which added a best interest standard of conduct for insurers and producers. The Working Group exposed the draft FAQ document for a 30-day public comment period. The Working Group plans to discuss the comments received during a virtual meeting Dec. 14.
Annuity Suitability (A) Working Group
Virtual Summer National Meeting
July 29, 2020

1. Adopted its Dec. 19, 2019, and 2019 Fall National Meeting Minutes

The Working Group met Dec. 19, 2019, and Dec. 7, 2019. During its Dec. 19 meeting, the Working Group discussed comments received on appendices to the *Suitability in Annuity Transactions Model Regulation* (#275).

Superintendent Dwyer made a motion, seconded by Director Froment, to adopt the Working Group’s Dec. 19, 2019 (Attachment Four-A), and Dec. 7, 2019, minutes (see NAIC Proceedings – Fall 2019, Life Insurance and Annuities (A) Committee, Attachment Two). The motion passed unanimously.

2. Discussed State Activities to Adopt Revised Model #275

Commissioner Ommen said the purpose of this agenda item is hear a discussion of activities some states have taken to adopt the 2020 revisions to Model #275, which added a best interest standard of conduct for insurers and producers. He said this discussion relates to the Working Group’s work in 2020 to complete the second part of its charge to “consider how to promote greater uniformity across NAIC-member jurisdictions.”

Commissioner Ommen said Iowa adopted the revisions to Model #275 through the adoption of an administrative rule in May with a Jan. 1, 2021, effective date.

Superintendent Dwyer discussed the steps Rhode Island has taken to move toward promulgating a rule to adopt the 2020 revisions. She asked Commissioner Ommen about Iowa’s experience in adopting the revisions to Model #275 and whether the Iowa Insurance Department (IID) had experienced pushback from stakeholders with respect to some of the provisions.

Commissioner Ommen said that prior to Iowa beginning its administrative rulemaking process, the IID had discussions with stakeholders. Some of the discussions related to issues included in the draft frequently asked questions (FAQ) guidance document the Working Group will discuss next. He said Iowa received widespread support from stakeholders on the new regulation. He detailed the process the IID used to adopt the regulation, which included going through an administrative rules committee of the Iowa Legislature, and through that process, the IID was able to explain the history and the process the NAIC used to develop the revisions to Model #275. He explained that Iowa’s administrative rulemaking process does not allow for the adoption of drafting notes within the text of a rule. He said stakeholders encouraged the IID to include the drafting notes found in the revisions to Model #275 in a bulletin, which insurers can use, together with the rule, to assist in their implementation.

Director Cameron said Idaho has submitted legislation related to the revisions to Model #275 for consideration during Idaho’s upcoming legislative session. He said the Idaho Department of Insurance has not received any comments yet suggesting changes to the language in the revisions to Model #275. He discussed legislation enacted during Idaho’s last legislative session imposing additional standards for indexed annuities. He discussed provisions in the legislation requiring clarification and provisions that caused concern among some stakeholders, such as the new surrender charge requirements and provisions requiring insurers to file before use of advertising materials and materials insurers provide to their producers.
Commissioner Ommen agreed the states could encounter additional issues other than those specifically related to the best interest standard of conduct during their process to adopt the revisions to Model #275.

Director Froment said Ohio is beginning its administrative process to adopt the revisions to Model #275. She said the Ohio Department of Insurance has had informal discussions with stakeholders and expects within the next few weeks to submit a legislation proposal implementing the revisions to Model #275 for executive branch review before submitting legislation to the Ohio legislature for its consideration. Director Froment said that during some of Ohio’s discussions with stakeholders, some questions have been raised about certain provisions in the revisions to Model #275 and the intent behind them. She said Ohio has expressed its commitment to stakeholders to develop a bulletin or a FAQ document to answer some of the questions, but is looking to use some of what the Working Group includes in its FAQ guidance document to assist Ohio in developing its own FAQ or bulletin. She said Ohio also is looking at a Jan. 1, 2021, implementation date.

Ms. Shepherd explained that Kentucky has a requirement to review adopted regulations every five years. She said that as part of this review process, the Kentucky Department of Insurance will be submitting revised annuity suitability regulations, which will include the revisions to Model #275, to the Kentucky Legislature in August.

Commissioner Ommen said Working Group members, NAIC staff and he are ready and available to assist the states as they move forward with adopting the revisions to Model #275. He said he believes the FAQ guidance document is part of this effort to provide assistance to the states, but he also urged states to reach out directly to the Working Group members if they have questions about the revisions to Model #275.

3. Exposed the Draft FAQ Guidance Document

Commissioner Ommen said that NAIC staff, along with others and himself, developed a draft FAQ document as one way for the Working Group to complete the second part of its charge to “consider how to promote greater uniformity across NAIC member jurisdictions.” He explained that this guidance document will assist the states as they move forward with adopting the revisions to Model #275 through either the administrative or legislative process.

Commissioner Ommen said the FAQ document included in the Working Group’s materials is a draft and, at the end of the discussion, he is going to suggest exposing it for a 30-day public comment period. He said the purpose of the 30-day comment period is for the Working Group to receive input from stakeholders on what issues should be addressed in the document. He explained that some of the initial questions included in the FAQ document are questions NAIC staff and others received to date from the states and other stakeholders as they have moved forward with adopting the revisions to Model #275.

After additional discussion, the Working Group agreed to expose the draft FAQ document for a 30-day public comment period. The Working Group directed NAIC staff to revise the draft to “clean up” the draft prior to distributing it for public comment.

Having no further business, the Annuity Suitability (A) Working Group adjourned.
Agenda Item #2d

Life Insurance Illustration Issues (A) Working Group Report—Richard Wicka (WI)
The Life Insurance Illustration Issues (A) Working Group met on July 24 and March 10, 2020. During these meetings, the Working Group:

1. Continued making progress in the development of a one- to two-page consumer-oriented policy overview document in order to achieve its charge of improving the understandability of the life insurance policy summaries already required in Section 7B of the Life Insurance Illustrations Model Regulation (#582) and Section 5A(2) of the Life Insurance Disclosure Model Regulation (#580).

2. Reviewed two alternative draft revisions to Model #580. One version retains the current time frame for delivery of the policy overview at the same time as the buyer’s guide (either at the time of application or at the time of policy delivery if there is a free look period.) The other version has the policy overview delivered at the time of application.

3. Reviewed two alternative versions of the policy overview sample for term life insurance policies. One version shows the sample pre-under writing, the other after underwriting.

4. Requested comments on policy overview documents by close of business Aug. 28.

An extension of the Request for NAIC Model Law Development is requested until the Life Insurance and Annuities (A) Committee reviews issues raised by interested parties and provides guidance.

W:\National Meetings\2020\Summer\Cmte\AILIIWG\LIIWG summary report final.docx
The Life Insurance Illustration Issues (A) Working Group of the Life Insurance and Annuities (A) Committee met July 24, 2020. The following Working Group members participated: Richard Wicka, Chair (WI); Jodi Lerner (CA); Chris Struk (FL); Teresa Winer (GA); Bruce R. Ramge (NE); and Jana Jarrett (OH). Also participating were: Denise Lamy (NH); Sarah Neil (RI); John Carter (TX); James Young (VA); and David Hippen (WA).

1. Reviewed its Charge and Work Plan

Mr. Wicka reminded the Working Group of its charge to “explore how the narrative summary required by Section 7B of the Life Insurance Illustrations Model Regulation (#582) and the policy summary required by Section 5A(2) of the Life Insurance Disclosure Model Regulation (#580) can be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers.” He reminded the Working Group that it had initially decided to add a requirement for a policy overview document in both Model #580 and Model #582 to fulfill the Working Group’s charge. However, in September 2018, the Working Group agreed to simplify its approach by revising Model #580 to include the requirement of a policy overview document to accompany all life insurance policies for delivery with the Life Insurance Buyer’s Guide (Buyer’s Guide). This new approach eliminates the need for revisions to Model #582.

Mr. Wicka reminded the Working Group that the issue of timing for the delivery of the policy overview was an issue that the Working Group continues to discuss. He said that he consulted with Director Jillian Froment (OH) as chair of the Life Insurance and Annuities (A) Committee, and her suggestion was to develop alternate versions of revisions to Model #580, as well as Sample Policy Overview documents. He said one version maintains the delivery requirements set out in Model #582 that tie delivery of the policy overview to the delivery of the Buyer’s Guide, which under certain circumstances can be delivered as late as the time of delivery of the policy. The other version requires delivery of the policy overview at the time of application.

Mr. Wicka said the purpose of this meeting is to review the four documents that reflect these two versions, which had been distributed to the Working Group, interested state insurance regulators and interested parties and posted on the NAIC website. He explained that all the revisions that the Working Group made during its previous meetings have been included in both versions. The only difference is in the modifications to the drafts that have delivery at the time of application to reflect that the insurer would not have certain data before underwriting. He said where certain requirements conflicted with the new delivery requirements, he used language Section 5A(1) and Section 5A(2) in the Annuity Disclosure Model Regulation (#245), which is highlighted in the draft.

Mr. Wicka pointed out that the sample overview documents have not been formatted, but rather are simple Microsoft Word documents so that people can easily comment on the substance. However, because the Working Group’s charge contemplates improving the design and format of these documents to promote consumer readability, comments or suggestions on formatting are welcome. He said he is exposing the alternative term life sample overview documents for a public comment period ending Aug. 28. He said draft sample templates for whole life and universal life with alternative versions based on the delivery requirements will be exposed once comments have been received and incorporated into the term life sample templates. He said he hopes that the Working Group will be able to come to a consensus on the timing of delivery after reviewing and discussing the alternative drafts, but if that is not possible, the Life Insurance and Annuities (A) Committee will make a decision based on the alternative versions.

Ms. Lerner and Ms. Winer said the plan sounds good. Ms. Lerner said she has some language suggestions that she will submit to the Working Group. Birny Birnbaum (Center for Economic Justice—CEJ) asked what is delivered at the time of application in Model #245. Mr. Wicka said it is a summary disclosure document, similar to the policy overview. Patrick Reeder (American Council of Life Insurers—ACLI) said the ACLI believes an informed consumer is critical and very important to companies and the ACLI. He said the ACLI has three recommendations to include in the plan that Mr. Wicka outlined: 1) there needs to be consumer testing to ensure this form will enhance the customer’s experience (putting aside whether the existing process is lacking); 2) include adopting and enhancing electronic delivery in to streamline the process and take into account the way people want to receive their information; and 3) have a fulsome discussion about the about the buying process, backed by data,
to discern whether improvements are needed. Mr. Reeder said the ACLI still has concerns with layering another regulated disclosure on top of the illustration. He said that the description of the process is inaccurate and needs to explain that both medical and financial information will be collected during the application process. He said the ACLI also has concerns with the policy overview as drafted because it contains a lot of “yes or no” questions, and he said he is not sure this is an appropriate place for the binary questions.

Mr. Wicka agreed that consumer testing has been mentioned before and would be helpful. He said that although it is not something this Working Group can do, it would be able to include consumer testing in a recommendation to the Life Insurance and Annuities (A) Committee. Mr. Wicka pointed out that there seems to be a “chicken and the egg” tension with the recommendation that a review of the buying process needs to occur to determine if the policy overview is necessary and the recommendation that there needs to be consumer testing of the policy overview. In any event, both of these recommendations are beyond the scope of this Working Group, but he said he appreciates how this work affects these larger issues.

Mr. Birnbaum agreed that the Life Insurance and Annuities (A) Committee should address the recommendations that the ACLI forwarded. He said the CEJ always supports consumer testing and has already made a recommendation to the Committee to review illustrations. Ms. Lerner agreed that consumer testing would be very useful. Mr. Wicka asked for comments to be limited to the two alternative sample documents. He explained that any changes made to the samples will be incorporated into Model #580 and that a final comment period will be afforded once all the samples have been reviewed.

Having no further business, the Life Insurance Illustration Issues (A) Working Group adjourned.
Life Insurance Illustration Issues (A) Working Group
Conference Call
March 10, 2020

The Life Insurance Illustration Issues (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call March 10, 2020. The following Working Group members participated: Richard Wicka, Chair (WI); Chris Struk (FL); Teresa Winer (GA); Mike Yanacheak (IA); Jana Jarrett (OH); Brian Hoffmeister (TN); and Doug Danzeiser and Phil Reyna (TX). Also participating were: Brenda Johnson and Tate Flott (KS); Denise Lamy (NH); Jeffrey Rohaly (PA); James Young (VA); and David Hippen (WA). Also participating were Camille Anderson-Weddle and Marjorie Thompson (MO).

1. Reviewed its Charge and Work Plan

Mr. Wicka reminded the Working Group of its charge to “explore how the narrative summary required by Section 7B of the Life Insurance Illustrations Model Regulation (#582) and the policy summary required by Section 5A(2) of the Life Insurance Disclosure Model Regulation (#580) can be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers.” He reminded the Working Group that it had initially decided to add a requirement for a policy overview document in both Model #580 and Model #582 to fulfill the Working Group’s charge. However, in September 2018, the Working Group agreed to simplify its approach by revising Model #580 to include the requirement of a policy overview document to accompany all life insurance policies for delivery with the Life Insurance Buyer’s Guide (Buyer’s Guide). This new approach eliminates the need for revisions to Model #582.

Mr. Wicka reminded the Working Group that the issue of timing for the delivery of the policy overview remains an outstanding issue. The first option is to continue the delivery requirements set out in Model #582 that tie delivery of the policy overview to the delivery of the Buyer’s Guide, which under certain circumstances can be delivered as late as the time of delivery of the policy. The other option is to require delivery of the policy overview at the time of application.

On the Working Group’s last call, there was agreement to ask the Life Insurance and Annuities (A) Committee to provide guidance to the Working Group on the issue of timing for the delivery of the policy overview. Mr. Wicka said he spoke with Director Jillian Froment (OH), chair of the Committee, who said she would prefer that the Working Group find consensus on the issue. However, if that is not possible, she asked that the Working Group develop alternative drafts to submit to the Committee for a later decision. Mr. Wicka said he will distribute two versions for the Working Group to discuss. He said there will be additional modifications to the draft that has delivery at the time of application to reflect that the insurer would not have certain data before underwriting. He said he will also develop draft sample templates for Whole Life and Universal Life and alternative versions based on the delivery requirements. He said he hoped that the Working Group would be able to come to a consensus on the timing of delivery after discussing the alternative drafts.

Mr. Wicka mentioned two outstanding issues for the Working Group to discuss. The first issue involves a sample table of surrender fees developed by Jodi Lerner (CA) to include in the policy overview document. The second issue is whether the Working Group wants to recommend that the sample policy overview documents go through consumer testing. Mr. Wicka said he hoped to have recommendations for the Life Insurance and Annuities (A) Committee by the Summer National Meeting. Michael Lovendusky (American Council of Life Insurers—ACLI) stressed the importance of providing sufficient time for comment. Mr. Wicka assured Mr. Lovendusky that there would be plenty of time given for comments.

Having no further business, the Life Insurance Illustration Issues (A) Working Group adjourned.

W:\National Meetings\2019\Fall\Cmte\ALIIIWG\LIIWG confcall 3-10-20.docx
Agenda Item #2e

The Life Insurance Online Guide (A) Working Group met Oct. 20 and Feb. 24. During these meetings, the Working Group:

1. Discussed next steps in the development of a life insurance online guide.

2. Agreed to focus on content and leverage the expertise of the NAIC Communications Division to develop online format and functionality.

3. Agreed to explore current content on the NAIC Website and consider what additional content is needed.
Life Insurance Online Guide (A) Working Group
Virtual Meeting
October 20, 2020

The Life Insurance Online Guide (A) Working Group of the Life Insurance and Annuities (A) Committee met Oct. 20, 2020. The following Working Group members participated: Sarah Neil, Chair (RI); Jason Lapham (CO); John Robinson (MN); Laura Arp (NE); Jeffrey Rohaly (PA); Christine Menard-O’Neil (VT); and Susan Campbell (WA).

1. Reviewed its Work Plan for the Online Guide

Ms. Neil explained the origins of the Working Group. She said the Working group is an outgrowth of the Buyer’s Guide (A) Working Group that developed a short guide focusing on information for first-time life insurance purchasers. The Buyer’s Guide (A) Working Group realized that there was a lot of detailed information about life insurance that consumers might want to know about, and it agreed that an online guide might be a good way to get that information to consumers. Once the Buyer’s Guide was finished, the Life Insurance Online Guide (A) Working Group was created and received its charge to “develop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public.”

Ms. Neil said the Working Group has struggled with how to structure an online guide and how that coordinates with developing language. The Working Group drafted language in the past, but it still ran into issues with the format of the online guide. At the Summer National Meeting, Director Jillian Froment (OH), then chair of the Life Insurance and Annuities (A) Committee, provided guidance to the Working Group. She said the Working Group should focus on the content for the online guide and leverage the expertise of the NAIC Communications Division to develop the format and function of it.

Ms. Neil said consequently, she would like for the focus of the meeting to be on the part of the charge that has the Working Group evaluating existing content on the website. She said she would like for the Working Group to review the information currently on the website before deciding what to add. She said Laura Kane (NAIC), the Director of the Communications Division, is going to discuss the content on the website and explain some of changes that are underway. Ms. Neil said the Buyer’s Guide is narrowly tailored to first time buyers, but the audience of the online guide could be broader. Birny Birnbaum (Center for Economic Justice—CEJ) said it is his understanding that the online guide would go beyond the limited information in the Buyer’s Guide about how to buy a product. He said the online guide is intended to include information about life insurance products and how to use and understand a product once it is bought. Michael Lovendusky (American Council of Life Insurers—ACLI) suggested starting with the Buyer’s Guide as a first page of an online guide and building out additional information from there, perhaps using hyperlinks to additional information about the types of policies.

Ms. Kane explained that the NAIC website in undergoing a rebranding and overall revamping. She said the consumer pages are being evaluated as well. She said material that was formally part of InsureU is being migrated over to the new website. She explained that the NAIC is looking forward to feedback from subject matter experts (SMEs) like this group to inform decisions about what information needs to be included. She said if the Working Group provides content, the NAIC will work to bring the grade level down. She said a great thing about an online guide is the ability to link to definitions of terms like “beneficiary” or “deductible” that may be necessary to include. She said if the Working Group provides some content, she would work with her team and outside consultants to develop some options of layouts and formats to present to the Working Group. She said the information on the website is very basic right now and generally comes from the information in the Buyer’s Guide.

Mr. Birnbaum said life insurance has really changed over the past 30 years, and there are many more complex product types than there used to be. He said it is important that the online guide helps consumers sort through all the information. He suggested that a decision tree approach would guide consumers through the information to find what they are looking for quickly and meaningfully. Jerry Nevins (NAIC) said the NAIC is exploring the use of chatbots. He said chatbots can analyze a document and answer questions posed in natural language. He said a decision tree could be built into that, but it would be different from an online guide. He said chatbots can either point people to a document for an answer or take language from a document to directly provide an answer. Mr. Robinson said things get complicated because content is inextricably linked to format. He said the chatbot will have to be programmed to only answer certain questions due to the complexity of life insurance products. He said it could provide useful information to consumers, but it would not be a manual on life insurance.
Ms. Kane suggested focusing on developing the content the consumer needs to know and coming up with some options. The chatbot discussions can happen later. Mr. Birnbaum asked if Ms. Kane knows how often this information is being accessed on the NAIC website. Ms. Kane said she would provide this data to the Working Group. Ms. Neil asked the Working Group to review the life insurance content on the NAIC website and decide whether there should be additional information added. She said the Working Group can discuss any observations on its next call.

Having no further business, the Life Insurance Online Guide (A) Working Group adjourned.
Life Insurance Online Guide (A) Working Group
Conference Call
February 24, 2020

The Life Insurance Online Guide (A) Working Group of the Life Insurance and Annuities (A) Committee met via conference call Feb. 24, 2020. The following Working Group members participated: Sarah Neil, Chair (RI); Teresa Winer (GA); Bob Harkins (NE); Jana Jarrett (OH); and David Buono (PA). Also participating were: Perry Kupferman (CA); Camille Andersen-Weddle (MO); and Phil Reyna (TX).

1. Reviewed its Work Plan for the Online Guide

Ms. Neil reminded the Working Group that it had last met July 24, 2019. She explained that the Working Group had agreed to focus on drafting language rather than debating the layout or look of an online guide. She said that the NAIC is in the process of revamping the entire website, including the consumer sections of the website, which provides the Working Group with an opportunity to work with the NAIC Communications division on the look and functionality of the online guide.

The Working Group discussed how it came to receive its charge to “develop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public.” Birny Birnbaum (Center for Economic Justice—CEJ) said his recollection was that the written Life Insurance Buyer’s Guide (Buyer’s Guide) needed to be updated, and the Working Group at that time talked about expanding the Buyer’s Guide to help consumers navigate the complexities of life insurance. Ultimately, the Working Group at that time decided it made sense to develop a simplified written Buyer’s Guide. That Working Group also agreed that in light of the advances in technology and the potential for conveying large amounts of information more simply in an electronic format, it made sense for an online guide to be developed after the written Buyer’s Guide was completed to provide consumers with more detailed information.

Ms. Neil said she agreed that the original intent was for the online guide to supplement the information in the Buyer’s Guide. She said that this is the reason behind the draft outline that was distributed to Working Group members, interested state insurance regulators and interested parties and was posted on the Working Group’s web page in preparation for today’s conference call. She explained that she outlined the current Buyer’s Guide and then added in the terms and topics from the draft language discussed by the Working Group last July.

Ms. Winer asked whether there was a reason that the old website tools, like InsureU, were being abandoned and were there lessons that the Working Group could learn from. Jennifer Cook (NAIC) explained that the removal of InsureU from the NAIC website is part of a larger rebranding and overall revamping of the NAIC website. Ms. Neil said that was her understanding as well. Ms. Winer asked whether there were existing resources developed by other groups that the NAIC could use to convey this information. Brenda J. Cude (University of Georgia) said that, in her view, it is very important that the information come from the NAIC as an unbiased resource for consumers. Ms. Neil said that based on the Working Group’s charge, it needs to develop an NAIC online guide that will be integrated into the NAIC website. Ms. Neil said that she and Ms. Cook have been talking with Laura Kane, who is the NAIC Communications Director. Ms. Kane has participated in earlier Working Group conference calls and has agreed to help the Working Group fulfill its charge to develop an online resource on life insurance in the context of the overall NAIC website. Ms. Neil said she would like to focus on developing language in order to have material for the NAIC Communications team to use to provide the Working Group with some examples of possible layouts and formats. Mr. Birnbaum said he would like to revisit his earlier suggestion for a decision-tree organizational structure for the online guide.

The Working Group agreed to meet again via conference call the week of March 8. In preparation for that conference call, Ms. Neil asked for comments on the draft language from July 24, 2019. She also asked for comments on the draft outline with respect to any missing topics or organizational suggestions.

Having no further business, the Life Insurance Online Guide (A) Working Group adjourned.
Agenda Item #2f

Life Actuarial (A) Task Force Report—Mike Boerner (TX)
The Life Actuarial (A) Task Force met Dec. 3, 2020. During these meetings, the Task Force:

1. Adopted its Nov. 12, Nov. 5, Oct. 29, Oct. 27, Oct. 22, Oct. 8, Oct. 1, Sept. 24 and Aug. 27 minutes, which included the following action:
   a. Adopted its Summer National Meeting minutes.
   b. Adopted its 2021 proposed charges.
   c. Adopted the 2021 Generally Recognized Expense Tables (GRET).
   d. Adopted revisions to Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49).
   e. Adopted changes to the Standard Nonforfeiture Law for Individual Deferred Annuities (#805).
   f. Adopted amendment proposal 2020-02, which clarifies guidance on the boundaries of a company’s latitude in following VM-20, Requirements for Principle-Based Reserves for Life Products (VM-20) steps.
   g. Adopted amendment proposal 2020-03, which clarifies net premium reserve (NPR) calculation requirements.
   h. Adopted amendment proposal 2020-09, which modifies the life principle-based reserving (PBR) exemption.

2. Adopted the report of the Longevity Risk (E/A) Subgroup.

3. Adopted the report of the Guaranteed Issue (GI) Life Valuation (A) Subgroup.

4. Adopted the report of the Experience Reporting (A) Subgroup.

5. Adopted the report of the Indexed Universal Life (IUL) Illustration (A) Subgroup.

6. Adopted the report of the Variable Annuities Capital and Reserve (E/A) Subgroup.


8. Heard an update from the Interstate Insurance Product Regulation Commission (Compact).

9. Heard an update from the Society of Actuaries (SOA) on research and education.


11. Heard a report from the NAIC Legal staff on the application of Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security to the NAIC as the experience reporting agent under VM-50, Experience Reporting Requirements (VM-50) and VM-51, Experience Reporting Formats (VM-51) of the Valuation Manual.

12. Re-exposed amendment proposal 2019-33, which provides for the application of PBR requirements for group life insurance contracts with individual risk selection criteria issued under insurance certificates.

13. Adopted amendment proposal 2020-08, which provides an alternative method for mortality aggregation.

14. Exposed amendment proposal 2020-11, which allows exemption of policies from prior issue years when there is a change in the life PBR exemption requirements.

15. Heard an American Academy of Actuaries (Academy) proposal requesting that the Task Force consider a one-year time lag for PBR mortality reporting.
Agenda Item #3

Discuss Any Other Matters Brought Before the Committee

—Commissioner Marlene Caride (NJ)