

Date: 7/15/20

2020 Summer National Meeting  
Virtual Meeting

**LIFE INSURANCE AND ANNUITIES (A) COMMITTEE**

**Tuesday, August 11, 2020**

**11:00 a.m. – 12:30 p.m. ET / 10:00 – 11:30 a.m. CT / 9:00 – 10:30 a.m. MT / 8:00 – 9:30 a.m. PT**

**ROLL CALL**

Jillian Froment, Chair	Ohio	James J. Donelon	Louisiana
Marlene Caride, Vice Chair	New Jersey	Bruce R. Ramge	Nebraska
Jim L. Ridling	Alabama	Barbara D. Richardson	Nevada
Alan McClain	Arkansas	Chris Nicolopoulos	New Hampshire
Trinidad Navarro	Delaware	Linda A. Lacewell	New York
Dean L. Cameron	Idaho	Jon Godfread	North Dakota
Doug Ommen	Iowa	Mark Afable	Wisconsin
Vicki Schmidt	Kansas		

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

**AGENDA**

1. Consider Adoption of its July 10 Minutes—*Director Jillian Froment (OH)*
2. Consider Adoption of its Task Force and Working Group Reports—*Director Jillian Froment (OH)*
  - 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 Actuarial (A) Task Force—*Mike Boerner (TX)*
3. Discuss Next Steps regarding the Life Insurance Online Guide (A) Working Group—*Director Jillian Froment (OH)*
4. Discuss Next Steps regarding the Retirement Security (A) Working Group—*Director Jillian Froment (OH)*
5. Discuss a Potential Charge to Review the Design and Guidance for Life Insurance and Annuity Illustrations—*Director Jillian Froment (OH)*
6. Discuss Any Other Matters Brought Before the Committee—*Director Jillian Froment (OH)*
7. Adjournment

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Draft: 7/27/20

Life Insurance and Annuities (A) Committee  
Conference Call  
July 10, 2020

The Life Insurance and Annuities (A) Committee met via conference call July 10, 2020. The following Committee members participated: Jillian Froment, Chair, Tynesia Dorsey and Peter Weber (OH); Marlene Caride, Vice Chair (NJ); Jim L. Ridling, Yada Horace and Steve Ostlund (AL); Alan McClain represented by Vincent Gosz and Vanessa Darrah (AR); Doug Ommen, Mike Yanacheak, Lindsay Bates and Kevin Clark (IA); Dean L. Cameron and Michele Mackenzie (ID); Vicki Schmidt represented by Julie Holmes, Tate Flott, Nicole Boyd, Craig Van Aalst, Barbara Torkelson and Brenda Johnson (KS); James J. Donelon represented by Rich Piazza, Frank Opelka and Tom Travis (LA); Jon Godfread (ND); Bruce R. Ramge and Martin Swanson (NE); Chris Nicolopoulos represented by Roni Karnis (NH); Barbara D. Richardson (NV); Linda A. Lacewell represented by Mark McLeod, Victor Agbu and Bill Carmello (NY); and Mark Afable (WI). Also participating were: Russ Galbraith (AR); Jodi Lerner, and Perry Kupferman (CA); Eric Unger and Rolf Kaumann (CO); David Altmaier, Chris Struk and Carolyn Diggs (FL); Fred Andersen and John Robinson (MN); Cynthia Amann and Marjorie Thompson (MO); Steve Boston (PA); Elizabeth Kelleher Dwyer, Matt Gendron and Sarah Neil (RI); Mike Boerner, Rachel Hemphill Raja Malkani and David McElroy (TX); Tanji Northrup and Tomasz Serbinowski (UT); Craig Chupp (VA); and Lichiou Lee and John Haworth (WA).

1. Adopted its Dec. 30, 2019, and 2019 Fall National Meeting Minutes

Commissioner Ridling made a motion, seconded by Commissioner Caride, to adopt the Committee's Dec. 8, 2019 (*see NAIC Proceedings – Fall 2019, Life Insurance and Annuities (A) Committee*) and Dec. 30, 2019 (Attachment **One-A**) minutes. The motion passed unanimously.

Director Froment said since the adoption of the *Suitability in Annuity Transactions Model Regulation* (#275) via conference call Dec. 30, 2019, questions have come up in the states regarding implementation of the model. She explained that given the second part of the Annuity Suitability (A) Working Group's charge to "[c]onsider how to promote greater uniformity across NAIC-member jurisdictions" and after speaking with Commissioner Ommen, they agreed that it would be helpful for the Working Group to continue to try to develop guidance for the states as they implement the revised model. Director Froment said Commissioner Ommen has graciously agreed to chair this effort. Director Froment said the Working Group is scheduled to meet on July 29 as part of the virtual NAIC Summer National Meeting.

Director Ramge said the Market Conduct Examination Standards (D) Working Group plans to revise the *Market Regulation Handbook* in accordance with the revised Model #275. He asked whether the Working Group should postpone its work until after the Annuity Suitability (A) Working Group finishes its guidance. Commissioner Ommen agreed that it makes sense for the Market Conduct Examination Standards (D) Working Group to hold off for just a few months.

2. Approved the Request for NAIC Model Law Development for Model #805

Mr. Boerner explained that the Request for NAIC Model Law Development for the *Standard Nonforfeiture Law for Individual Deferred Annuities* (#805) arises out of concern with the 1% minimum nonforfeiture accumulation rate, which may be difficult for insurers to achieve in the current very low interest rate environment. He said this Request for NAIC Model Law Development is to revise Model #805 to address this minimum nonforfeiture rate.

Mr. Carmello said he would like to expand the Request for NAIC Model Law Development to address the current cap in Model #805. He explained that while this is not an issue at the moment, during a high interest rate environment in the future, the 3% cap currently in Model #805 could become a problem. He said it makes sense to address both of these issues at this time.

Mr. Gendron said he would like for Life Actuarial (A) Task Force to consider whether the minimum nonforfeiture rate should be something other than 0%, like 0.5%. Mr. Boerner said under the Request for NAIC Model Law Development, the Task Force could also consider other alternatives between 0% and 1%. He clarified that the move to 0% does not mean a company is prohibited from guaranteeing more than that.

Director Froment suggested that the Committee vote on the current Request for NAIC Model Law Development, which is responding to the current situation in the marketplace. She suggested that the Task Force discuss the additional issues raised by Mr. Carmello and Mr. Serbinowski and report back to the Committee with any suggestions regarding additional modifications to Model #805. Brian Bayerle (American Council of Life Insurers—ACLI) said the ACLI would be supportive of having the Task Force look at the cap, but the current Request for NAIC Model Law Development is responding to an urgent need and the cap is not likely to be an issue in the near term. Liz Pujolas (Insured Retirement Institute—IRI) agreed with Mr. Bayerle that revisiting the cap could occur down the road.

Commissioner Richardson made a motion, seconded by Commissioner Caride, to approve the Request for Model Law Development with respect to Model #805. The motion passed unanimously.

### 3. Adopted Technical Revisions to AG 48

Mr. Boerner said a couple of edits were made 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) that were already made to the *Term and Universal Life Insurance Reserve Financing Model Regulation (#787)*. He said one was a reference change to the *Credit for Reinsurance Model Law (#785)* and another was a reference change to the *Credit for Reinsurance Model Regulation (#786)*. He said AG 48 needs to remain similar to Model #787, as there are situations in which both are needed for some period of time to cover their portion of XXX financing arrangements.

Mr. Ostlund made a motion, seconded by Director Ramge, to adopt technical revisions to AG 48 (*see NAIC Proceedings – Summer 2020, Executive (EX) Committee and Plenary – Attachment ?*). The motion passed unanimously.

### 4. Adopted Valuation Manual Amendments

Mr. Boerner said there were seven *Valuation Manual* amendments for the Committee to consider. He said they are primarily technical in nature. He said one example involves a reference to the London Interbank Offered Rate (LIBOR), which is scheduled to go away in 2021. He said *Valuation Manual* amendment 2020-06 revises the *Valuation Manual* to be with when LIBOR is scheduled to go away. He said another example is *Valuation Manual* amendment 2020-07, which replaces the 4% floor for the minimum nonforfeiture interest rates with a reference to Internal Revenue Service (IRS) §7702 with which it was originally intended to coordinate. Director Ramge asked if there are any references to LIBOR in any of the NAIC models. Mr. Boerner said he does not know, but the question could be researched.

Commissioner Ommen made a motion, seconded by Commissioner Caride, to adopt the *Valuation Manual* amendments (*see NAIC Proceedings – Summer 2020, Executive (EX) Committee and Plenary – Attachment ?*). The motion passed unanimously.

### 5. Adopted AG 49-A

Mr. Andersen explained the background behind the development of AG 49-A, which starts with the *Life Insurance Illustrations Model Regulation (#582)*. Model #582 specifies the requirements for life insurance illustrations. Mr. Andersen said insurance companies favor illustrations because they allow the demonstration to consumers of both guaranteed and non-guaranteed elements of life insurance policies. He said an example of a non-guaranteed element is the credited rate on a policy's account value in a given year. He said, for some policies in some products, this credited interest rate is determined at the beginning of a policy year, dependent on the market interest rate and market factors at that time. He said for indexed universal life (IUL) insurance policies, the credited interest rate plays out during a policy year. He said in many cases, it depends on the movement of a stock market index during that year. He explained that if Standard & Poor's 500 index (S&P 500) has a good year, there will be a higher credited interest rate; but if the S&P 500 has a bad year, the credited interest rate might be zero. He said the account might not lose money due to that movement, but it does not gain money in a bad stock market scenario either. He said the question is how these credited interest rates should be illustrated.

Mr. Andersen explained that the Model #582 contemplates constraints on illustrations based on what has recently happened. He said for indexed products, there were concerning practices taking place involving illustrations of what has recently happened, which led to *Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest* (AG 49) being developed in 2015. He said an extreme example of what AG 49 was trying to prevent is risky international stock funds that had a good five-year run being the baseline for an illustration that projects the next 30 years. He said AG 49 requires that indexed product illustrations show no higher credited rate than is reflected in the S&P 500 over an

average of 25-year histories. He said this is to eliminate the cherry picking of a rare risky fund that had a good run for a few years. He said AG 49 also requires side by side, an equally prominent illustration with a more conservative credited rate, so the consumer viewing the illustration sees a good scenario and a worse scenario side by side.

Mr. Andersen explained that in 2018, commissioners became aware of product innovations that were leading to the illustration of even higher credited rates than was contemplated when AG 49 was being developed. The biggest innovation was the multiplier. He said the multiplier results in more downside and more upside than related indexed products seen before. He said in 2018, the Committee charged the Life Actuarial (A) Task Force, which formed the IUL Illustration (A) Subgroup, to address any concerns with these products. Throughout 2019, there were a number of open in-person meetings and conference calls, and key decisions were made. Mr. Andersen said the first decision by the Task Force was to reject a proposal from a coalition of active IUL writers suggesting that adding disclosures would be a sufficient way to address the charge. The Task Force instead decided to take a more conservative approach and place additional constraints on the illustrated credited rates. The second decision by the Task Force was to reject a proposal by a large contingency of companies that suggested that products with multipliers should illustrate more favorably than products without multipliers. The Task Force instead decided to allow products with multipliers to illustrate no more favorably than products without multipliers. The third decision was to add more conservatism in the illustration of policy loans, cutting in half the illustrated benefit of borrowing at a certain rate and illustrating at a rate that was up to 1% higher and under Task Force adoption would now be 0.5% higher.

Mr. Andersen said the general concept behind these issues is selecting a point on the spectrum of allowing innovation on one side preventing loopholes on the other side. He acknowledged that on the Task Force, there were many differing opinions about where on the spectrum of allowing innovation versus preventing loopholes the Task Force should land. He said AG 49-A lands somewhere in the middle, but it is significantly more conservative than AG 49.

Commissioner Ommen spoke in support of AG 49-A. He said this project is critically needed at this time and reflects the knowledge and diligence of the Task Force members. He said AG 49-A is a big step forward for consumers.

Scott R. Harrison (IUL Coalition) said the outcome, while not perfect, does successfully resolve the concerns raised by state insurance regulators. He said that the IUL Coalition still supports disclosures, and there is opportunity to work on enhanced disclosures for innovative products. Mr. Bayerle is supportive of AG 49-A. He said it addresses the issues at hand without stifling innovation. He said that while not perfect, it will be a positive outcome for consumers.

Birny Birnbaum (Center for Economic Justice—CEJ) cautioned the Committee to keep in mind that the purpose of this effort is to reign in unrealistic and deceptive IUL illustrations and prevent insurers from using product designs to juice accumulation values with no real benefits to consumers. He said these are faux innovations. He said this has been an ongoing effort since 2014 when a Kansas survey identified absurdly high crediting rates for IUL products. He said while he appreciates the efforts of the Task Force, he urges the Committee to reject AG 49-A and send it back to the Task Force with clear instructions.

Mr. Birnbaum said AG 49-A was developed under a flawed process orchestrated by industry. He said AG 49-A reflects policy decisions that are fundamentally anti-consumer, and they should have been made by the Committee instead of the Task Force actuaries. He said a high-level task force should be created to address the inherent deceptiveness and over-complexity of current illustrations. He said AG 49-A is too complex to permit any accountability of insurers to consumers or state insurance regulators, and it still creates opportunities to game the guideline.

Mr. Birnbaum identified four major areas of concern:

- 1) The flawed process used to develop AG 49-A was the result of an inappropriate request by the Task Force for the ACLI to coordinate industry to come up with a proposal, effectively giving ownership of the AG 49 rewrite to the very insurers whose practices were causing the problems the Task Force was charged with stopping. Mr. Birnbaum said this resulted in an approach to setting maximum crediting rates that is overly complex, untethered to reality and virtually impossible for regulatory or consumer accountability.
- 2) The Task Force should be directed to work with the Independent Proposal, which was drafted by independent experts who have expertise in the design and sale of IUL and other life insurance products, who have no financial interest in the outcome. Mr. Birnbaum said the Independent Proposal establishes a simpler, more effective and more accountable approach to establishing crediting rates for IUL illustrations.

- 3) The application of any revised protections should apply to all illustrations whether for new policies or for new illustrations on in-force policies regardless of date of issue. Mr. Birnbaum said if the purpose for revising AG 49 is to stop unrealistic illustrations and provide consumers with better information and expectations about how the IUL product will operate and perform, logic dictates that the consumer protections in a revised AG 49 should be available to all consumers.
- 4) The revised AG 49-A must eliminate loan arbitrage that permits illustrations to show premium and finance policy loans as a risk-free way to make money. Mr. Birnbaum said the current AG 49 and proposed AG 49-A permit policy loans to be illustrated with a policy loan interest rate less than the crediting rate for illustrating account value accumulation. He said this is an example of illustrating riskless arbitrage—the consumer can borrow money at one rate and earn a higher rate of return without any risk. He said this allows IUL illustrations to present future loans on the policy as cash disbursements that never need to be paid back because the policy is continuing to earn the constant better-than-loan-interest-rate returns.

Bonnie Burns (California Health Advocates) said she was shocked by the complexity of the illustration that Mr. Birnbaum attached to his comment letter. She said that a person would need to take a class to be able to understand this document.

Director Froment said she has been actively engaged with Mr. Boerner and Mr. Andersen throughout the development of AG 49-A. She said it is clear to her that they have made incredible progress that will have an immediate positive impact on consumers. She said the longer action is delayed, the longer these illustrations will continue the way that they are. She said she recognizes that there is a broader question, and she would like to discuss at the Summer National Meeting the possibility of a new charge to thoroughly review the design and regulation of illustrations and determine what changes, if any, might be needed and what group might be best able to handle the charge.

Mr. Carmello said New York would support taking a fresh look. Commissioner Ommen said he supports moving forward with AG 49-A because there is a need for immediate action. However, he recognizes that a state insurance regulator's work is never done, and he would support further review of illustrations broadly and the Task Force's consideration of aspects of the Independent Proposal, to the extent that they were not considered before.

Commissioner Ommen made a motion, seconded by Commissioner Ridling, to adopt AG 49-A. The motion passed unanimously.

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

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*2020 Summer National Meeting  
Virtual Meeting*

**ACCELERATED UNDERWRITING (A) WORKING GROUP**

**Friday, July 31, 2020**

**11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT**

**Meeting Summary Report**

The Accelerated Underwriting (A) Working Group met July 31, 2020. During this meeting, the Working Group:

1. Adopted its March 12, Feb. 20, Feb. 2, Jan. 23 and 2019 Fall National Meeting Minutes, which included the following action:
  - a. Heard presentations from consulting firms, lawyers, consumer representative organizations, and the American Academy of Actuaries (Academy).
2. 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.

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*Conference Call*

**ANNUITY DISCLOSURE (A) WORKING GROUP  
March 13, 2020**

**Interim Summary Report**

The Annuity Disclosure (A) Working Group met via conference call on March 13, 2020. During its meeting, the Working Group:

1. Discussed outstanding issues and comments received on draft revisions to the *Annuity Disclosure Model Regulation* (#245):
  - a. Adopted new language for Section 6F(9)(b)(i) to clarify that each of the listed components does not need to be an indice. The adopted language states: “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.”
  - b. Identified some final items to resolve before voting to adopt the model to bring to the Life Insurance and Annuities (A) Committee, including:
    1. Discussion of plain language modifications to the disclosure requirements in Section 6G; and
    2. Whether to bring issues to the attention of the Life Insurance and Annuities (A) Committee regarding standards for product oversight in the states and with the Interstate Insurance Product Regulation Compact (Insurance Compact) in the area of indexed annuities and the relationship between an index provider and the hedging provider.
2. Agreed that the Working Group was very close to reaching consensus on revisions to Model #245. Given that the Working Group was unable to meet due to Working Group members focusing on COVID-19 related issues in their states, the Working Group would ask the Life Insurance and Annuities (A) Committee for an extension of the Request for NAIC Model Law Development in order to finish its work.

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Draft: 6/16/20

Annuity Disclosure (A) Working Group  
Conference Call  
March 13, 2020

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 Lloyd (KS); Nour Benchaaboun (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 Lamy (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. Benchaaboun 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 an 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 departments 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 they 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 performing 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 does not create inappropriate loopholes. He said he appreciates Mr. Birnbaum's underlying concerns, but some of his comments do not reflect the way that the industry operates or the way the indices actually work. He said hedge costs do not assume a reversion to the mean. He said hedge costs are not affected by past performance of indices; they consider how fair markets would price based on a formula. He said whether an index performance was high or low does not affect the hedge costs for these indices.

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 said 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.

2020 Summer National Meeting  
Virtual Meeting

**ANNUITY SUITABILITY (A) WORKING GROUP**

**Wednesday, July 29, 2020**

**1:00 – 2:00 p.m. ET / 12:00 – 1:00 p.m. CT / 11:00 a.m. – 12:00 p.m. MT / 10:00 – 11:00 a.m. PT**

**Meeting Summary Report**

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met July 29, 2020. During this meeting, the Working Group:

1. Adopted its 2019 Fall National Meeting minutes.
2. Adopted its Dec. 19, 2019, minutes, which included the following action:
  - a. As directed by the Life Insurance and Annuities (A) Committee, reviewed and discussed the comments received on the draft of proposed revisions to the *Suitability in Annuity Transactions Model Regulation (#275)* related to the proposed appendices.
  - b. Revised the appendices based on the comments received and forwarded the revised draft to the Committee for its consideration during the Committee's Dec. 30, 2019, conference call.
3. Heard an update from Idaho, Iowa, Kentucky, Ohio and Rhode Island on their efforts to adopt the revised Model #275, including any issues encountered.
4. Discussed its work for 2020 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. The Working Group decided to expose the draft FAQ document for a 30-day public comment period and at the end of the comment period hold a conference call in September to discuss the comments received.

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*Conference Call*

**LIFE INSURANCE ILLUSTRATION ISSUES (A) WORKING GROUP**  
**July 24, 2020**

**Interim Summary Report**

The Life Insurance Illustration Issues (A) Working Group met via conference call July 24, 2020. During its meeting, 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. ~~18~~ 28.
5. Agreed to request an extension of the Request for NAIC Model Law Development from the Life Insurance and Annuities (A) Committee in order to make progress on draft revisions to Model #580 creating a policy overview and sample templates.

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Life Actuarial (A) Task Force Meeting Summary Report  
--Materials Pending