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AMERICAN ACADEMY *of* ACTUARIES

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May 13, 2015

Mike Boerner  
Chair, Life Actuarial (A) Task Force  
National Association of Insurance Commissioners

Dear Mr. Boerner:

The NAIC's Life Actuarial Task Force (LATF) has exposed for comment certain edits to the Standard Nonforfeiture Law for Individual Deferred Annuities (Model #805) (SNFLIDA). The American Academy of Actuaries<sup>1</sup> Nonforfeiture Modernization Work Group (NFMWG) has considered and discussed those edits in light of its ongoing goal to assist LATF in creating a modernized approach to nonforfeiture for life insurance and annuities. The NFMWG has prepared the following comments with regard to the edits proposed by LATF.

Background and Our Perspective

As with the Standard Nonforfeiture Law for Life Insurance (SNFL), the SNFLIDA has not kept pace with product innovation. Product designs such as Guaranteed Lifetime Withdrawal Benefits, Contingent Deferred Annuities (CDAs), and Universal Life with Secondary Guarantees were not contemplated in the development of existing nonforfeiture requirements, since such products did not exist in the marketplace at that time.

The NFMWG's view is that nonforfeiture benefits are actuarially justified whenever there is prefunding. This would apply to CDAs as well as other annuity and life insurance products, including those with guaranteed living benefits. Yet, the methodology underlying existing nonforfeiture requirements does not directly apply to the newer product designs. Consequently, such requirements may have been inconsistently applied to the new product designs by insurers as well as regulators. This might have resulted in a lack of fair value to consumers commensurate with the risks assumed by the company, and/or a lack of uniformity, where prefunding exists.

While the NFMWG appreciates that SNFLIDA would be clarified by providing for nonforfeiture requirements for CDAs, the NFMWG believes the appropriate approach is to address CDA nonforfeiture requirements as part of a broader initiative which reconsiders the methodology for nonforfeiture requirements under both the SNFL and the SNFLIDA in light of the newer product designs. As you know, the NFMWG has been working with LATF to that end for several years, and its current draft proposal provides the actuarial framework and methodology to address

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<sup>1</sup> The American Academy of Actuaries is an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

nonforfeiture requirements for a broad range of life insurance and annuity products, including CDAs. In addition to nonforfeiture benefit requirements, the NFMWG believes that any overall reform of nonforfeiture requirements should include provisions for enhanced consumer reporting and access to nonforfeiture information.

### Recommendations

- Prior to the introduction of a consistent nonforfeiture approach for life insurance and annuity products generally, the NFMWG believes it appropriate to exclude CDAs from existing annuity nonforfeiture requirements, as is contained in section 2.B. of the proposed revisions to SNFLIDA.
- However, consistency of regulation is important; consequently, it would not be appropriate for the SNFLIDA to authorize individual state regulators to implement their own unique nonforfeiture requirements. As a result, the NFMWG believes that the proposed section 2.C. should be deleted.

The NFMWG appreciates the opportunity to provide these comments to LATF and anticipates providing continuing support for NAIC efforts to investigate nonforfeiture reform. Please contact Brian Widuch, the Academy's life policy analyst ([widuch@actuary.org](mailto:widuch@actuary.org); 202-223-8196) if you have any questions or would like any further assistance.

Sincerely,

Tom Berry, MAAA, FSA  
Chairperson  
Nonforfeiture Modernization Work Group  
American Academy of Actuaries