



September 28, 2026

Ben Slutsker
Chair, Life Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners

Re: Reinsurance Recapture Charge

Dear Chair Slutsker:

On behalf of the American Academy of Actuaries’¹ Reinsurance Work Group (RWG), we appreciate the opportunity to provide comments to the Life Risk-Based Capital (E) Working Group (LRBCWG) regarding the July 27, 2026, referral from the Financial Condition (E) Committee directing the development of a [reinsurance recapture RBC factor and a revised reinsurance recoverability methodology \(referral\)](#). The RWG recognizes the importance of this issue and appreciates the LRBCWG’s consideration of public comments as it works to implement the Committee’s directives.

The RBC Model Governance (EX) Task Force (MoGo Task Force) is developing a prioritized list of RBC initiatives that are designed to fill in perceived gaps and inconsistencies in the current RBC formulas. Such changes would take place over the next 24 months. At the August 2026 MoGo Task Force meeting, Bridgeway Analytics, a MoGo Task Force consultant, presented 10 potential gaps and inconsistencies for consideration as part of their initiative. One of those proposed initiatives closely resembles the E Committee referral. This leads to two points. First, we recognize that the MoGo Task Force and the E Committee identified similar opportunities, and this represents an opportunity to coordinate more closely. Second, Bridgeway labeled the effort required to accomplish the life reinsurance charge as “significant.” As we discuss below, we agree with this assessment and believe that, to achieve the regulator’s goals, it will take a “significant” amount of time to develop new RBC methodology.

We believe a fully developed method to deal with the E Committee’s concern would require refining what risks are being targeted, then determining the data/methods to assess the risks, and only then, with results in hand, proposing how RBC should respond to the identified risks. Over the last several decades, there have been very few instances of life and annuity reinsurance breaches where a forced recapture occurred. Even in these few situations, data on exactly what, if any, capital and surplus strain occurred due to the recapture may be difficult to obtain. While Actuarial Guideline LV (AG 55) provides some insight into the issue, those insights focus on reserves, with capital implications being a secondary concern. It explicitly does not analyze the total assets supporting a transaction. That’s a genuine data gap, not merely a modeling gap, and addressing it will require significant time,

¹ The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For 60 years, the Academy has assisted 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.

potentially over multiple years. To put this in perspective, obtaining the missing data first requires agreement on what data would be most useful to quantify the risk. Then there needs to be formulated a data request which can obtain this data. This data request would then be required to be completed by companies and finally it would need to be analyzed. A similar process with AG 55 took 18 months from proposal to NAIC adoption and then another year to get some preliminary analysis completed. This reinforces our belief that it will take significant time to create new RBC factors.

That said, we have the following comments on the referral:

Question 1—Method for the Recapture Charge

The RWG suggests that the LRBCWG consider a more robust approach—Option 1(c)—and present the following two possible approaches:

- (i) a hybrid or tiered design under which a factor applies as the general rule, but a more punitive factor or non-allowance applies only where collateral or asset-quality tests are failed, similar in spirit to how Actuarial Guideline 48 and the Term and Universal Life Reserve Financing Model Regulation (#787) operate; or
- (ii) a stress- or scenario-based charge that estimates the excess reserve or asset need under a prescribed shock, which more directly captures the point-in-time replacement cost that recapture actually represents.

Other ways of reflecting the risk the LRBCWG is looking to capture may be reasonable, and with additional time, the RWG could explore other solutions. We recognize that either of the approaches above will take longer to develop and calibrate than a simple static factor, and we would welcome the opportunity to work with the LRBCWG on the data and design questions associated with these approaches.

In reviewing methods 1(a) and 1(b), the RWG developed a list of pros and cons (see the Appendix) for those simpler approaches that led the RWG to suggest the above scenarios. Please let us know if a deeper discussion about those pros and cons would be beneficial to the LRBCWG.

Question 2—Asset Composition and the Collateral Offset

While we have not had sufficient time to consider all potential alternatives, we believe a stronger approach than either method 2(a) or 2(b) would be to build on the work already done in AG 55. Insurers already must do stress testing under AG 55 and report any asset shortfall. We could use the shortfall as the basis for the RBC charge, instead of inventing a brand-new test.

Concerns with Option (a) and Option (b) as written

Option (a) (require collateral to cover the full statutory reserve) is too blunt. For example, XXX/AXXX reserves are intentionally conservative—higher than the real economic risk—by design, for *all* companies. This option would penalize well-run, well-collateralized companies the same as the handful of risky outliers, i.e., the outliers that prompted this referral.

Option (b) (require collateral to cover a PBR/economic-style reserve) borrows a method built for a different purpose—domestic affiliated captives under AG 48. The regulators' own memo says

transactions with unauthorized reinsurers tend to show *bigger* reserve reductions than Bermuda deals. We believe that is a warning sign that the AG 48 assumptions may not hold here—meaning Option (b) could end up requiring *too little* collateral exactly where the risk is highest.

As with Question 1, we have a more detailed list of strengths and weaknesses of Options 2(a) and 2(b) in the Appendix.

Correlation Among Counterparties and Counterparty Diversification

One additional issue we would encourage the LRBCWG to consider, which is not directly addressed by either question in the memo, is correlation—not only the correlation already embedded elsewhere in the RBC formula, but also correlation that may exist among reinsurance counterparties themselves. A ceding company that reinsures a single block of business across several reinsurers presents a materially different risk profile than one that concentrates the same exposure with a single counterparty, and the current framing of the referral (a charge applied to ceded reserves and modified coinsurance balances by jurisdiction) does not appear to distinguish between the two.

We would encourage the LRBCWG to consider whether, and how, the recapture charge (and the related recoverability methodology) should reflect diversification of counterparties, e.g., where a single block is reinsured on a coinsurance basis with multiple partners, each assuming a 10%–25% quota share, rather than a single reinsurer assuming the full risk. A methodology that is sensitive to counterparty concentration and scales smoothly to the level of diversification, and to correlation among counterparties (e.g., common ownership, affiliated asset/investment managers, shared retrocessionaires, or common jurisdictional or market exposures), would more accurately capture the incremental risk the charge is intended to address, and would avoid penalizing ceding companies that have structured their reinsurance programs specifically to reduce single-counterparty concentration risk.

We recommend that any method adopted does not have a cliff effect, such as one based solely on the number of reinsurers instead of their relative share of the business ceded. A further advantage of the diversification of reinsurance counterparties is the increased likelihood that the impact of one of the reinsurers defaulting could readily be covered by one of the other reinsurers already on the risk.

Other Items for the LRBCWG's Consideration

In addition to the specific questions posed, we would ask the LRBCWG to consider the following implementation issues, which we believe are material to a workable outcome regardless of which method is ultimately adopted:

1. Effective date and phase-in. A Dec. 31, 2027, effective date is aggressive for a fully calibrated factor. Industry commenters on the parallel, similarly targeted-for-year-end-2027 collateral loan RBC proposal have already requested additional runway; we would ask the LRBCWG to build in an explicit phase-in (for example, over two to three years) rather than a cliff-edge effective date.
2. Coordination with the recoverability methodology. The same referral directs a separate change to the recoverability credit-risk methodology. The recapture charge and the recoverability charge address related but distinct risks (loss of the cession versus failure to

pay recoverables) and should be designed, and informed by data call results, together so they do not double-count the same underlying counterparty risk.

3. Definition of non-reciprocal jurisdiction and cliff effects. A binary jurisdictional trigger may incentivize restructuring (e.g., retrocession chains or fronting through reciprocal-jurisdiction intermediaries) rather than genuine risk reduction. We would ask whether the Working Group has considered anti-avoidance provisions or a more graduated jurisdictional risk measure.
4. Interaction with existing reserve financing frameworks. The new charge should be reconciled with AG 48, Model #787, and the reduced-collateral treatment already available to reciprocal-jurisdiction reinsurers, so that business already subject to primary security requirements is not inadvertently swept into a charge designed for arm's-length, non-reciprocal cessions.
5. Confidentiality of data submissions. Any data call supporting factor development will involve commercially sensitive treaty information. We would ask that data collection proceed through an Academy/industry aggregation process, as with prior RBC factor projects, rather than company-identifiable submissions made directly to regulators, and that a credibility or materiality threshold be applied so immaterial cessions are not swept into new reporting requirements.
6. Retroactivity and grandfathering. The memo does not specify whether the charge applies to treaties already in force. We would ask for an explicit statement on scope, since retroactive application to legacy blocks priced without this capital cost would be a significant change in the economics for existing treaties.
7. Ongoing governance and recalibration. Market conditions will drift after initial calibration. We would ask the Working Group to specify how and when the factor(s) will be reviewed and updated so the charge does not become stale over time.

We appreciate the opportunity to share these comments and look forward to the continued collaborative conversations between the E Committee and interested stakeholders. If you have any questions or would like to discuss these comments further, please contact Will Behnke, the Academy's policy project manager, risk management and financial reporting (behnke@actuary.org).

Sincerely,

Jeremy Starr, MAAA, FSA
Chairperson, Reinsurance Working Group
Risk Management and Financial Reporting Council

Appendix

Question 1—Method for the Recapture Charge

1a. Factor Approach (RBC charge on ceded reserves/ModCo balances, net of overcollateralization)

Strengths

- Directly matches the memo's stated intent: a charge sized to “the additional capital that would be required if a ceding company had to recapture those reserves”—this is inherently a factor-based, magnitude question, not a binary credit/no-credit question.
- Preserves the existing RBC architecture (a charge added to the formula) rather than rewriting how reinsurance flows through each RBC component—reducing implementation burden for both regulators and filers.
- Naturally accommodates a collateral offset (overcollateralization credit), which the memo explicitly calls for a factor applied to an exposure base, with an allowance for posted assets, is a familiar RBC construct. Similar net-of-offset approaches are already reflected elsewhere in the RBC framework, including certain C-1 calculations. Scalable/gradable—the factor can be recalibrated over time as data quality improves, rather than requiring a structural rewrite.

Weaknesses

- A single factor (or even a factor grid) applied to *ceded reserves* is a crude proxy for “additional capital required upon recapture.” The true cost of recapture depends on reserve basis differences between the current statutory reserve and the reserve that would be required following recapture. Depending on the business involved, that reserve could reflect a PBR-based requirement, a reserve associated with XXX or AXXX requirements, or a reserve requiring additional asset support. Recapture costs are also affected by asset-liability mismatch considerations and market conditions (a recapture in a rising-rate environment or one in which credit spreads have widened sharply). A static factor cannot capture this cycle-dependence.
- Basis risk: recapture cost varies enormously by product (YRT mortality reinsurance vs. long-duration XXX/AXXX term/UL vs. variable annuity or longevity risk transfer) and by treaty structure (funds withheld vs. coinsurance vs. ModCo). A single factor — or even a factor by broad product line—risks being punitively conservative for some blocks and inadequate for others.
- Double-counting risk: to the extent the ceding company already holds C-1/C-3 charges on retained business of similar character, and to the extent the reinsurer's own capital and collateral already address counterparty risk (the existing 0.78%-type credit risk charge on unauthorized reinsurance), a new recapture factor could overlap with existing charges unless carefully scoped.
- “Non-reciprocal jurisdiction” as the trigger is a binary, jurisdiction-based test, not a risk-based test. It doesn't distinguish a well-collateralized, well-capitalized non-reciprocal reinsurer from a thinly-collateralized one, other than through the overcollateralization offset—so the design leans heavily on that offset mechanism to avoid being blunt.

1b. Non-Allowance of RBC Credit (deny reinsurance credit component-by-component)

Strengths

- Conceptually cleaner in one sense: it restores the ceding company's RBC to what it would be with the business retained gross, which is the most literal interpretation of "capital required upon recapture"—you simply don't give credit for the cession in the first place.
- Avoids inventing a new, freestanding factor; instead, it reuses the existing gross RBC calculation machinery (asset risk, insurance risk, interest rate risk on the retained/regenerated liability) that's already embedded in the formula for each component.
- Symmetric with how the formula already treats reinsurance with unauthorized/non-certified/non-reciprocal counterparties for credit-risk purposes (denial of credit is a familiar mechanism, not a novel one).

Weaknesses

- This is a substantially larger and more disruptive change than the memo appears to contemplate. The memo frames the goal as "account for the additional capital that would be required," i.e., a *charge approximating a cost*, not "act as if the cession never happened." Full non-allowance would also gross up asset risk (the ceding company doesn't actually hold the assets backing the ceded reserves) unless paired with a synthetic asset add-back, which introduces its own modeling problems and is arguably beyond the Committee's stated intent.
- Would require touching multiple RBC pages/components (C-0/C-1 asset risk, C-2 insurance risk, C-3 interest rate/market risk, and the reinsurance credit risk charge itself) with company- and treaty-specific adjustments—a much heavier lift for both the LRBCWG (design and calibration) and filers (implementation, data collection, and ongoing reporting) than a single new factor line.
- Likely overstates the true economic cost of recapture in most cases, because in an actual recapture the ceding company would not literally reconstruct the pre-cession gross position—it would negotiate, re-reinsure, restructure, or hold a PBR-consistent reserve, not necessarily the original (often redundant, e.g. XXX/AXXX) statutory reserve. Using full non-allowance as the proxy risks a charge that is far larger than the "additional capital that would be required," which is inconsistent with the memo's own framing and with RBC's general design principle of approximating tail risk, not worst-case gross-up.
- Creates a much bigger financial cliff-edge for affected companies, raising implementation and transition concerns (see timeline discussion below) and increasing the risk of unintended solvency actions (RBC-level triggers) that are disproportionate to the underlying risk.

Question 2—Asset Composition / Collateral Offset

2a. Charge the shortfall of permitted assets vs. U.S. statutory reserve credit

Strengths

- Simple, uses data companies already produce (statutory reserve credit is a known, audited quantity), and is directly tied to current regulatory reporting (Schedule S, AG 55 disclosures already show reserve credit and some collateral detail).
- Conservative and easy to administer/verify—a straightforward comparison, not a new valuation exercise.

Weaknesses

- U.S. statutory reserve credit for XXX/AXXX-type business is frequently *redundant* relative to an economic/PBR basis, so using it as the benchmark can produce a charge that is disconnected from the actual “additional capital that would be required,” i.e., it may overstate the true exposure precisely in the cases (long-duration redundant-reserve business) that motivated offshore reinsurance in the first place.
- Doesn’t resolve the core question in the prompt: *which specific asset types qualify as “permitted assets”* in the first place. Excess-of-loss reinsurance, letters of credit, non-admitted assets, and parental/affiliate guarantees all have materially different enforceability, liquidity, and credit-quality characteristics, and this does not establish qualification criteria by itself—it only tells you what to do once you’ve decided which assets fall into this category.

2b. Charge the shortfall of permitted assets vs. a PBR-type calculation of ceded reserves

Strengths

- More economically accurate than 2a: benchmarking against a PBR-consistent reserve (rather than the often-redundant statutory reserve) better isolates the *actual* tail risk being reinsured, which is more consistent with the memo’s “additional capital that would be required” framing and avoids penalizing companies for reserve redundancy that isn’t a real economic risk.
- Aligns methodologically with the direction the NAIC has already been heading (VM-20, the broader PBR framework, and the AG 48/AG 55 “Primary Security” and “non-Guideline Excluded Assets” concepts specifically referenced in the prompt), so it reuses existing regulatory infrastructure and definitions rather than creating new ones from scratch.

Weaknesses

- Requires performing (or re-performing) a PBR-type calculation for blocks that may never have been valued on a PBR basis in the first place (particularly older XXX/AXXX business reinsured before VM-20’s effective date), which is a significant actuarial undertaking—modeling, assumption-setting, governance, and audit, not just a lookup.
- Introduces model risk and inter-company comparability problems: PBR calculations involve company-specific assumptions and margins, so two companies with economically similar risk could show different “required” collateral levels purely from modeling choices, unless the LRBCWG prescribes a standardized (rather than company-specific) PBR-type calculation for this purpose—which itself takes time to build (see AG 55/VM-20 experience).
- Still leaves open the definitional question of which specific asset types qualify as permitted collateral (same gap as 2a).