NAIC ponders regs on separate accounts

By Editor Test *Wed, Aug 24, 2011*

What, if any, variable product guarantees would be covered by a guaranty association, the regulators want to know.

A subgroup at the National Association of Insurance Commissioners (NAIC) is asking whether the current regulatory framework for separate accounts makes sense, and whether guarantees have a legitimate place in a separate account, the *National Underwriter* reported.

Members of the separate accounts subgroup at the NAIC's Life Actuarial Task Force have included those questions in a response to a request from Joseph Torti III, the Rhode Island insurance superintendent and chair of the Financial Condition Committee at the NAIC, Kansas City, Mo.

Torti and his committee asked the actuarial task force to look into concerns "regarding a growing trend by life insurers to include non-unit linked products within the separate accounts," according to Leslie Jones, the South Carolina insurance regulator and chair of the task force.

The analysis could come up for discussion Saturday during an actuarial task force meeting at the NAIC's summer meeting in Philadelphia.

About 50 years ago, regulators say in the response, the U.S. Supreme Court told the Variable Annuity Life Insurance Company that it had to set up separate accounts for investment-linked variable annuities. The NAIC developed models that helped insurance regulators share oversight over the variable products with the U.S. Securities and Exchange Commission (SEC).

Holders of the unit-linked policies were insulated against problems in the insurer's general account but also risked loss of principal, the regulators say.

Since then, insurers have used separate accounts in many other types of products, regulators say.

So far, regulators say, none of the models give a precise definition of the term "variable."

"As a result there seems to be an increase in companies trying to take advantage of the flexibility available through separate account designs," the regulators say.

Some products may be simple fixed products insulated against general account problems, the regulators say.

"This may create an unfair discriminatory situation, because if a product is in the separate account the policyholders may perceive that they are getting a 'safer' deal than if the product is in the general account," the regulators say. "There is now law that allows regulators to constrain a company from putting a product in a separate account…. A question to explore is whether the current framework inappropriately allows for preferred classes to exist or be created within a separate account to the detriment of the general account."

Another question to ask is what, if any, variable product guarantees would be covered by a guaranty association, the regulators say.

Still another "question to explore is whether guarantees have a legitimate place in any separate account, given the preferred class of policyholders and insulation issues discussed earlier," the regulators say.