

Date: 10/21/24

Virtual Meeting

LIFE ACTUARIAL (A) TASK FORCE

Thursday, October 24, 2024

2:00 – 3:00 p.m. ET / 1:00 – 2:00 p.m. CT

ROLL CALL

Member	Representative	State
Cassie Brown, Chair	Rachel Hemphill	Texas
Scott A. White, Vice Chair	Craig Chupp	Virginia
Mark Fowler	Sanjeev Chaudhuri	Alabama
Lori K. Wing-Heier	Sharon Comstock	Alaska
Peni Itula Sapini Teo	Elizabeth Perri	American Samoa
Ricardo Lara	Ahmad Kamil	California
Andrew N. Mais	Wanchin Chou	Connecticut
Ann Gillespie	Vincent Tsang	Illinois
Holly W. Lambert	Scott Shover	Indiana
Doug Ommen	Mike Yanacheak	Iowa
Vicki Schmidt	Nicole Boyd	Kansas
Robert L. Carey	Marti Hooper	Maine
Grace Arnold	Fred Andersen	Minnesota
Chlora Lindley-Myers	William Leung	Missouri
Eric Dunning	Margaret Garrison	Nebraska
D.J. Bettencourt	Jennifer Li	New Hampshire
Justin Zimmerman	Seong-min Eom	New Jersey
Adrienne A. Harris	Bill Carmello	New York
Judith L. French	Peter Weber	Ohio
Glen Mulready	Andrew Schallhorn	Oklahoma
Michael Humphreys	Steve Boston	Pennsylvania
Jon Pike	Tomasz Serbinowski	Utah

NAIC Support Staff: Scott O'Neal/Jennifer Frasier

AGENDA

- 1. Continue Discussion on the AAT for Reinsurance Actuarial Guideline Draft: Scope and Aggregation Sections**
 - AAT for Reinsurance AG v2
 - Scope Subtopics brought up by Commenters
 - Updated AAA Comment Letter
 - ACLI Comment Letter – Scope and Aggregation
 - ACLI Comment Letter – Remaining Sections

- f. BILTIR Comment Letter
 - g. CIRCA Comment Letter – Scope and Aggregation
 - h. CIRCA Comment Letter – Remaining Sections
 - i. Missouri Comment Letter and AG Draft Edit
 - j. Peter Gould Comment Letter
 - k. RAA Comment Letter
 - l. John Robinson Comment Letter
 - m. RRC Comment Letter
 - n. Aaron Ziegler Comment Letter
- 2. Discuss Other AAT for Reinsurance Actuarial Guideline Draft Sections, Time Permitting**
- 3. Other Matters**

Fred Andersen, Minnesota, Draft 2, October 18, 2024

Some questions to focus on for the strawman draft reinsurance AAT Actuarial Guideline, below:

a) Should the scope of the Guideline be narrow (only including treaties of certain size and impact) or broad and then establish objective and subjective criteria for CFT, less rigorous analysis, or being exempted from analysis within the body?

>>> Tentatively resolved through 10/10 straw poll – narrow scope

b) Should at least one-time CFT automatically apply for all of these cases:

- > \$5 B reserve credit
- > \$1 B & > \$2% ceding company gross reserves or \$100 M & 10% or \$10 M & 20%

Or perhaps not require CFT for large, impactful treaties if certain safeguards are in place?

c) Do we envision attribution analysis as being an alternative to CFT in moderate risk cases or only as being a supplement to other analysis?

d) Does GPV (modeling liabilities but not assets except through a discount rate) have a place on the analysis spectrum even though the focus of the guideline is on asset-intensive business?

e) Is there another metric besides “Primary Security” that can provide comfort that appropriately stable assets are supporting reserves?

f) Is it important to analyze risks associated with actual assets supporting reserves if the company is not reliant on aggressive asset returns to support reserves?

g) Should these requirements not apply to reinsurance treaties established prior to a certain date? [Looking at individual treaties, setting that at 2020 or 2021 may leave out a few substantial treaties of interest. Should this mean including more years in the base scope or having a narrower base scope while adding certain treaties in a supplemental scope?]

>>> Tentative decision on 10/10 call: bifurcate affiliated (earlier treaties within scope) and non-affiliated (perhaps 2020 and after)

AG ReAAT – Straw Man Draft 2.1

Background

The NAIC Valuation Manual (VM-30) contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis.

State insurance regulators have identified the need to better understand the amount of reserves and type of assets supporting long duration insurance business that relies substantially on asset returns. In particular, there is risk that domestic life insurers may enter into reinsurance transactions that materially lower the amount of reserves and thereby facilitate releases of reserves that prejudice the interests of their policyholders. The purpose of this referral is to propose enhancements to reserve adequacy requirements for life insurance companies by requiring that asset adequacy testing (AAA) use a cash flow testing methodology that evaluates ceded reinsurance as an integral component of asset-intensive business.

This Guideline establishes additional safeguards within the domestic cedent to ensure that the assets supporting reserves continue to be adequate based on moderately adverse conditions.

Text

1. Effective date

This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2025, Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

Guidance Note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. Requirements in the Guideline will cease to apply to annual statutory financial statements when the corresponding or replacement VM-30 requirements become effective.

2. Scope

This Guideline shall apply to all life insurers with:

A. Asset Intensive Reinsurance Transactions ceded to entities that are not required to submit a VM-30 memorandum to US state regulators *{consider alternative reports or language}* in treaties established 1/1/2016 or later (perhaps 1/1/2020 or later for nonaffiliated treaties) that meet any of the criteria determined by counterparty in subsections (1) through (4) below:

- (1) In excess of \$5 billion of reserve credit or funds withheld or modified coinsurance reserve
- (2) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:

- (a) \$1 billion and
 - (b) 2% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves
 - (3) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:
 - (a) \$100 million and
 - (b) 10% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves
 - (4) Combined reserve credit, funds withheld, and modified coinsurance reserve in excess of:
 - (a) \$10 million and
 - (b) 20% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves
- B. Asset Intensive Reinsurance Transactions ceded to entities, regardless of treaty establishment date, that results in significant reinsurance collectability risk.
- (1) For year-end 2025, significant reinsurance collectability risk is determined according to the judgment of the ceding company's Appointed Actuary
 - (2) For year-end 2026, [placeholder for more objective guidance?]

3. Definitions

- A. Asset Intensive Reinsurance Transactions - Coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk as determined by Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation.
- B. Attribution Analysis – A step-by-step estimate of the proportion of reserve decrease from the pre-reinsurance U.S statutory reserve to Total Reserve attributable to factors such as differences in individual key assumptions.
- C. Deficient Block – When a block of business shows negative present value of ending surplus in cash-flow testing scenarios using reasonable assumptions under moderately adverse conditions such that additional reserves would be needed in the absence of aggregation.
- D. Pre-reinsurance Reserve – The U.S. statutory reserve that would be held by the ceding company for the business reinsured in the absence of the reinsurance transaction.
- E. Primary Security – [As defined in Section 4.D. of Actuarial Guideline 48] {or replace with another term to describe a stable asset supporting reserves}
- F. Reserve Decrease – If the Total Reserve is lower than the Pre-reinsurance Reserve, the difference between the two.

- G. Sufficient Block – When a block of business shows positive present value of ending surplus in cash-flow testing scenarios using reasonable assumptions under moderately adverse conditions.
- H. Total Reserve – The reserve held by the ceding company plus the reserve held by the assuming company minus the amount of reserves held by the assuming company supported with assets other than Primary Security.

Other definitions?

4. Risk Identification for Purposes of Establishing Analysis and Documentation Expectations

- A. General guidance - The higher the risk, the more rigorous and frequent the analysis and documentation that should be performed by the ceding company's Appointed Actuary.
- B. Relevant risks – For the purpose of determining the amount of rigor and frequency of analysis and documentation, relevant risks include one or more of the following:
 - (1) A VM-30 actuarial memorandum not being provided by the assuming company to a U.S. regulator.
 - (2) A significant Reserve Decrease in relation to the Pre-reinsurance Reserve.
 - (3) A significant use of non-Primary Security to support reserves.

{Is there another metric besides "Primary Security" that can provide comfort that appropriately stable assets are supporting reserves?}
 - (4) Significant collectability risk associated with the reinsurer, for reasons including:
 - (a) Rating of counterparty
 - (b) Capital position and trend of capital position
 - (c) Regulatory actions against counterparty
 - (d) Liquidity ratios
 - (e) Late payments on the agreement
 - (f) Decline in quality of invested assets
 - (5) Any potential risks associated with affiliated transactions should be discussed and considered.
- C. Risk mitigation - Any potential risks or risk mitigants associated with protections such as trusts or funds withheld may be discussed and considered.
- D. Risk identification for this purpose may involve reinsurance transactions within or outside the U.S.

5. Analysis and Documentation Expectations in Light of Risks

- A. Generally, cash flow testing the Total Reserve is most appropriate when there is higher risk, and less rigorous analysis may be appropriate if there is lower risk.

{In what types of cases should CFT be mandatory? Should safeguards such as trusts and funds withheld be considered as a reason not to perform CFT even for the largest, most impactful treaties?}

- B. Examples of less rigorous analysis include:

- (1) Gross premium valuation or other asset adequacy analysis techniques described in Actuarial Standard of Practice #22

{Is there an example of a type of case where GPV would be expected instead of CFT or attribution analysis if the focus of the AG is on asset-intensive business?}

- (2) Attribution analysis

{Are the instances of “moderate risk” where attribution analysis could be the only form of analysis performed?}

- C. Some aggregation may be allowed between treaties for a single counterparty subject to the considerations in Section 7.
- D. The domestic commissioner continues to have the option to require cash flow testing for individual treaties or counterparties, as they may deem necessary to understand and evaluate risk.
- E. Where information on cash flows or any aspect of the analysis is not available, the appointed actuary may use simplifications, approximations, and modeling efficiency techniques if the appointed actuary can demonstrate that the use of such techniques does not make the analysis results more favorable.

6. Attribution Analysis

- A. To perform an Attribution Analysis, for each relevant treaty, start with the Pre-reinsurance Reserve and document adjustments from that reserve to get to the Total Reserve.

- (1) Adjustments may include the following:

- (a) Differences in key assumptions

(i) Policyholder behavior assumptions

(ii) Mortality or longevity assumptions

(iii) Investment return assumptions versus US statutory discount rates

{Is it important to analyze investment risks if the company is not reliant on aggressive asset return assumptions?}

(iv) Other key assumptions, e.g., taxes

- (b) Other reserve adjustments due to:
 - (i) Removal of cash surrender value floor
 - (ii) Market value / book value difference due to change in interest rates
 - (iii) Moderately adverse to less adverse (or best estimate) conversion
 - (iv) Other, including other changes to fair value or future cash flows
 - (2) Please comment on the order of the Attribution Analysis adjustments, where a different order could significantly change the impact of an adjustment.
- B. Use the template or provide similar information in a user-friendly format explaining reasons for any reserve decrease.
 - C. It may be helpful to perform attribution analysis first between the Pre-reinsurance Reserve and another basis utilized by the cedant (e.g., the cedant's economic basis for the portion of the block ceded) and then from that basis to the Total Reserve.
 - (1) Please ensure comparison of dollar amounts of different reserves reflect the combined reserve held by the ceding and assuming companies.
 - D. Provide a narrative explanation, if necessary, to accompany the numbers provided in the attribution analysis template or similar format.
7. Aggregation Considerations
- A. Aggregation through subsidy of a Deficient Block by a Sufficient Block should only apply within a counterparty.

{Are there cases where aggregation within a counterparty is inappropriate?}
 - B. Provide an explanation if additional asset adequacy analysis reserves are not posted related to a Deficient Block, where the reason is aggregation with a Sufficient Block.
 - C. Where applicable, explain the stability and reliability of a Sufficient Block when it is being used to subsidize a Deficient Block.
8. Documentation
- A. If cash-flow testing is performed, present New York 7 results and key assumptions, along with other results the company selects to disclose.
 - B. If Attribution Analysis is performed, present the results in the template or in a user-friendly form providing similar information as in the template.
 - C. If performing other analysis, present results as appropriate.

D. Provide any narrative explanation to accompany the numerical results, including support for



AG 53 guidance - YE
2023.docx

decisions to hold or not hold additional asset adequacy analysis reserves.

Scope subtopics brought up by commenters include:

- Narrow the scope of the entire AG or start broader and narrow it as it's laid out in more detail when and how additional analysis is contemplated
- Asset intensive reinsurance definition which will impact / exclude certain products from the scope
- Application to transactions as of certain dates
- Impact of modco or funds withheld on scope?
- Reinsurance ceded to a company filing or not filing a VM-30 report
- Reserves in relation to US statutory reserves
- Size of blocks
- Separate account issues
- Asset issues related to scope (primary security?)



October 10, 2024

Rachel Hemphill
Chair, Life Actuarial (A) Task Force
National Association of Insurance Commissioners

Re: AAT for Reinsurance Actuarial Guideline Draft Exposure

Dear Chair Hemphill:

On behalf of the Life Practice Council (LPC) of the American Academy of Actuaries,¹ I appreciate the opportunity to provide comments to the Life Actuarial Task Force (LATF) regarding the [AAT for Reinsurance Actuarial Guideline Draft](#) (the Exposure). The LPC believes this is an important issue and appreciates LATF's consideration of public comments.

In response to the Exposure, the LPC offers the following feedback, which we developed to express our view that the Appointed Actuary should be able to apply actuarial principles and judgment in their Asset Adequacy Testing (AAT), while understanding the need for regulators to provide additional guidance regarding the specific risks causing concern.

It is important to us that any new requirements appropriately consider the protection of insurance company policyholders and the general public. Therefore, we support exploring where existing policyholder protections may not be working as intended, with any necessary new requirements focused on ensuring an appropriate level of policyholder protections based on risk.

Further, we recognize that reinsurance has proved to be an effective risk mitigation tool and believe that any changes to AAT requirements should be targeted to material treaties that are of specific concern to avoid these changes disincentivizing insurance companies from implementing appropriate reinsurance solutions. Targeting specific treaties should also minimize the creation of adverse effects on policyholders.

The following comments are based on the understanding that the additional analysis proposed in the Exposure, when viewed comprehensively alongside other pertinent analyses and data, will better inform the Appointed Actuary in support of forming their actuarial opinion and

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 more than 50 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.

determining the amount of any additional reserves they may recommend. Note that the Scope and Aggregation sections below have not changed since our October 3 letter but are included for completeness.

Scope

1. We assume that the impact of the proposal's scope would only cover whether a life insurer is subject to **any** new requirements introduced by Exposure, and not specifically what those requirements are, which is covered in other sections.
2. Regarding the options laid out in the Exposure, we recommend "Option 1: Narrow scope, some analysis expected for all treaties in the scope." We suggest that any new Actuarial Guideline requiring more detailed analysis than is already performed by the Appointed Actuary be a function of the specific risks of concern to the regulators. As noted in LATF's original goals on this topic, there is a desire to "prevent work by US ceding companies where there's immaterial risk,"² and therefore a narrow scope is appropriate.

We also believe that a narrow scope has the following benefits:

- a. Provides added policyholder protection elements in instances in which there are specific risks of regulatory concern.
- b. Limits the burden on the industry by reducing non-value-added analysis / work being prepared for the regulator that is non-responsive to regulator needs.
- c. Minimizes review burden on the regulatory community.
- d. Excludes certain treaties / business that are clearly not the drivers of current regulatory concern (e.g., traditional YRT; immaterial reinsurance exposure to any single counterparty).
- e. Allows for a more timely implementation.
- f. Eases implementation efforts and allow for learning from the first set of submissions.

In addition, there is already guidance for actuaries when performing actuarial services in connection with preparing, determining, analyzing, or reviewing financial reports for internal or external use that reflect reinsurance or similar risk transfer programs on life insurance, annuities, or health benefit plans (including disclosure requirements) contained in Actuarial Standard of Practice No. 11 *Treatment of Reinsurance or Similar Risk Transfer Programs Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports*.

3. We support the proposed exemption criteria as laid out in Section 2A. However, we have the following suggestions for improvement:

² From attachment 9 of the LATF Spring 2024 meeting materials

- a. The size threshold refers to “reserve credit or funds withheld or modified coinsurance reserve.” As written, this could lead to double counting, as the reserve credit may already include the funds withheld. We suggest clarifying so that double-counting does not occur.
 - b. The treatment of business that includes separate accounts is unclear. We suggest clarifying that if the reinsured business includes separate accounts for which associated risks are assumed by the reinsurer, those separate account reserve credits would be considered in assessing the size threshold.
 - c. We suggest including reserves held in Exhibit 7, rather than only including Exhibit 5 reserves in the quantitative scope criteria.
 - d. For the quantitative exclusion criteria in Section 2A (1)-(4), we note that the reinsurance reserve reported in Schedule S, Part 3 may not reflect the actual reserve exposure of the reinsurance agreement—for example, when a business is subject to PBR and reserve credits are determined on an allocation basis. Therefore, it may not be appropriate for determining materiality. In such instances, it may be more appropriate to use a reserve calculated by the cedant as the difference between an aggregate reserve pre-reinsurance ceded and an aggregate reserve post reinsurance ceded
4. We also recommend considering the materiality of a group of treaties or counterparties when determining whether a life insurer is in scope. Doing so may help avoid a situation in which multiple immaterial treaties or counterparties have the same outcome as one material treaty or counterparty but would otherwise cause the life insurer to be exempt from the requirements solely due to individual treaty size.
 5. We believe that a key concern raised by regulators relates to reinsurance treaties that result in the pursuit of more aggressive investment strategies and/or a significant reduction in the total asset requirement (reserves plus required capital). Based on this belief and given LATF’s stated objective to prevent work by U.S. ceding companies where there is immaterial risk, we believe it may be appropriate to exempt treaties where such conditions do not exist. For example, consideration for an exemption could be given to treaties that meet all of the following conditions: (1) no assets are transferred or assets transferred are segregated (for example, using modified coinsurance, a funds withheld, or having assets held in trust); (2) such assets are adequate (e.g., based on the latest standalone asset adequacy testing) to support the business on a stand-alone basis; and (3) have not been subject to subsequent changes (e.g., material deterioration in experience or material changes in the investment portfolio) that would bring into question the conclusions arrived at in (2).
 6. We support the inclusion of older treaties with significant reinsurance collectability risk as outlined in Section 2.B.

Definitions

1. Regarding the definition of Attribution Analysis, we believe there are significant drivers of differences between the pre-reinsurance Statutory Reserve and the Total Reserve. Therefore, we suggest adding the following to the end of the definition, “due to factors such as differences in individual key assumptions, differences in methodologies, such as application of a reserve floor, or differences due to consideration of risk diversification across policies.”
2. Regarding the definitions of Deficient Block and Sufficient Block, we suggest clarifying that “cash flow testing scenarios” refers to U.S. statutory cash flow testing at the initial inception date of the treaty, but could be on some other basis for subsequent valuation dates.

Risk Identification for Purposes of Establishing Analysis and Documentation Expectations

1. We generally agree that the higher the risk, the more rigorous and frequent the analysis should be. However, we also note that a less rigorous approach with more conservatism may also be appropriate. We also believe that degree of rigor and frequency should allow for judgment by the Appointed Actuary and should consider the practicality of performing the analysis. For example, it may not be feasible to perform cash flow testing very frequently.
2. We believe that the list of relevant risks is reasonable. The ultimate determination and evaluation of the relevant risks should be performed by the Appointed Actuary, as such determination considers the specific facts and circumstances of a given reinsurance arrangement.
3. We agree that risk mitigants, such as trusts or funds withheld, should be considered. Important considerations in the event of risk mitigants may include provisions related to the amount, nature, maintenance, and fungibility of the assets, as well as the extent to which the assets are set aside solely for claims on the ceded business.
4. We agree with consideration of reinsurance agreements that are both within and outside the U.S. In other words, guidance should be based on the risk profile, rather than the jurisdiction of the reinsurer.

Analysis and Documentation Expectations in Light of Risk

1. Regarding item A, we believe that the guidance in ASOP No. 22 is sufficient. It requires that the actuary consider using cash flow testing and allows application of judgment in the choice of which method to use. It also states that cash flow testing is generally appropriate where cash flows vary under different economic conditions.
2. We believe that if the cash flows associated with the reinsured business are not expected to materially vary under different economic scenarios, a requirement for cash flow testing may not be necessary. In those situations, for otherwise scoped-in reinsured business, we recommend an allowance for other forms of testing, such as stress testing.
3. We also note there may be practical challenges in performing cash flow testing if the Appointed Actuary does not have adequate information regarding the specific liabilities reinsured and/or the associated assets that can limit the usefulness of the analysis. For example, if cash flow testing is required in circumstances in which the Appointed Actuary does not have adequate information (e.g., a block where the cedant has exited that line of business, the liabilities are 100% reinsured, and the reinsurer or a TPA performs policy administration), they would need to utilize more judgment to make assumptions for use in cash flow testing. This, in turn, may indicate the need to include additional margin. Per ASOP No. 22, which states “When determining the level of assumption margins, if any, the actuary should take into account the following: a. the level of uncertainty for the assumption, including sparsity of data.” The actuary would also need to follow ASOP No. 41, which requires disclosure of “any cautions about risk and uncertainty” as well as “any limitations or constraints on the use or applicability of the actuarial findings.”
4. We also suggest considering the use of submissions to a non-U.S. regulator as an alternative documentation approach. For example, if the business is tested under a scenario analysis submitted to a non-U.S. regulator, that information may be sufficient for use in assessing reserve adequacy or, at a minimum, such information could be used to further narrow the need for any additional analysis to risks not already addressed.

Attribution Analysis

1. Attribution analysis may not be effective in ascertaining whether assets are adequate to cover policyholder obligations. Attribution analysis may be helpful in enhancing the understanding of the drivers of a reinsurance transaction and the components of the NAIC statutory framework that may contribute to a company’s desire to use reinsurance. However, such analysis will take time and effort to perform and may not provide as much value as analyses to assess reserve adequacy (e.g., cash flow testing or stress testing). If regulators are interested in exploring drivers behind reserve levels pre- and post-reinsurance, the use of attribution analysis may be considered as part of a separate research initiative or field study, rather than implementing it as a mandatory submission

requirement.

2. We would also suggest that if attribution analysis is used in some form, accommodations be made to allow for reasonable approximations and judgment. Note that such analysis would not be used to directly compare different company results, given the dependence on the order in which the analysis is performed.
3. Finally, consistent with our comments on the definition of attribution analysis, we suggest adding a category for diversification methodology under “(b) Other reserve adjustments due to:”.

Aggregation Considerations

1. ASOP No. 22 currently provides guidance to Appointed Actuaries (AAs) applying judgment as to when blocks of business may be aggregated for purposes of testing the adequacy of assets supporting booked reserves.

If LATF chooses to provide additional guidance on aggregation in an Actuarial Guideline, to the extent possible we recommend aligning it with existing guidance in section 3.1.4 of ASOP No. 22, i.e., “the actuary may aggregate reserves ... for multiple blocks of business if the assets or cash flows from the blocks are available to support the reserves. ... [T]he actuary should not use assets or cash flows from one block of business to discharge the reserves and other liabilities of another block of business if those assets or cash flows cannot be used for that purpose.”

2. Regarding item B of the Exposure, we would support new requirements that include disclosure by the Appointed Actuary of the rationale for aggregation.
3. Regarding item C of the Exposure, which comments on reliability and stability of a sufficient block that is “subsidizing” a deficient one, we believe it would be appropriate to follow the guidance in ASOP No. 22, which states: “When considering aggregation of results to offset deficiencies, the actuary should take into account the type and timing of cash flows, the related cash flow risks, and the comparability of elements of the analysis such as analysis methods, scenarios, discount rates, and sensitivity of assumptions” (section 3.2.4). For example, if a sufficient block has very “back ended” cash flows that are available to support a deficient block on a present value basis, we believe the Appointed Actuary should take into account whether those back ended cash flows can actually support the earlier cash shortfalls for the deficient block. In addition, ASOP No. 7, *Analysis of Life, Health, or Property/Casualty Insurer Cash Flows*, states, “The actuary should consider the impact of any negative interim earnings during the cash flow projection period, if it is appropriate for the purpose of the analysis” (section 3.11). As occurs today, we believe that evaluation of interim surplus results is an important

consideration in assessing adequacy. If there are future interim shortfalls on an aggregate book value basis under moderately adverse conditions, the Appointed Actuary would evaluate whether additional reserves might be needed to address the shortfall.

Documentation

We suggest removing from item A the requirement to present the New York 7 results, and instead leaving the appropriate scenarios to disclose based on the risk profile of the business to the judgment of the actuary. Otherwise, the documentation requirements laid out in the Exposure appear reasonable.

If you have any questions or would like to discuss these comments further, please contact [Amanda Barry-Moilanen](#), the Academy's life policy analyst.

Sincerely,

Vice President, Life
American Academy of Actuaries

**Brian Bayerle**

Chief Life Actuary

202-624-2169

BrianBayerle@acli.com**Marc Altschull**

Senior Actuary

202-624-2089

MarcAltschull@acli.com**Colin Masterson**

Policy Analyst

202-624-2463

ColinMasterson@acli.com

October 3, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Fred Andersen,
Minnesota Department of Commerce

Re: AAT for Reinsurance Actuarial Guideline Draft – Scope and Aggregation

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the recently exposed Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline Draft (Guideline/draft AG) that was exposed by LATF shortly after the NAIC 2024 Summer National Meeting in Chicago, Illinois. We would also like to take this time to express our sincere gratitude to LATF members and staff for the extensive amount of work and discussion that has taken place so far this year as a part of this effort.

Industry remains committed to helping regulators address the concerns articulated during LATF meetings. We appreciate that LATF and the regulatory community are working hard to balance the importance of reinsurance as an effective risk-mitigation tool with maintaining policyholder protection and enabling consumer access to essential life insurance and retirement solutions. Additionally, we appreciate the engagement of LATF, its parent A Committee, the impacted E Committee, and NAIC Commissioners at large as we continue this important dialogue and come to a shared understanding of the concerns and mitigants in place.

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States.

acli.com

Our comments are provided with an understanding that the results of the analysis required by this Guideline would not be binding but would instead give the Appointed Actuary, domestic regulator, and interested regulators greater transparency into the risks associated with the reinsurance counterparties and inform Appointed Actuaries' assessment of reinsurance counterparties.

ACLI would also like to emphasize the interconnected nature of all sections of the Guideline and the need for this to be an iterative process. As the Guideline development progresses, our views on individual sections may evolve based on developments in other areas of the conversation.

The following describes our position with respect to Scope (Section 2) and Aggregation (Section 7). ACLI believes the Guideline should provide greater transparency regarding reserve adequacy associated with material asset intensive reinsurance transactions and be targeted to address the potential risks in the transactions of specific concern to regulators.

Scope

We suggest refining the Scope by creating an affirmative definition of asset intensive reinsurance transactions. Specifically, Asset Intensive Reinsurance Transactions ("AIRT") are coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk. The matrix included in Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation identifies the following life products with significant, inherent investment risk:

- Universal Life Fixed Premium
- Universal Life Flexible Premium
- Indeterminate Premium Permanent Life
- Adjustable Premium Permanent Life
- Traditional Participating Permanent Life
- Traditional Non-participating Permanent Life
- Single Premium Whole Life
- Other Annuity Deposit Business
- Guaranteed Interest Contracts
- Flexible Premium Deferred Annuities
- Single Premium Deferred Annuities¹
- Immediate Annuities¹

For avoidance of doubt, yearly renewable term (YRT)² reinsurance, retrocession transactions with underlying YRT business, and nonproportional reinsurance such as stop loss or catastrophe reinsurance are not considered asset intensive reinsurance transactions and would not be considered within the scope of the Actuarial Guideline.

Given the regulator concerns around the level of reserve reduction and lack of transparency in the assets and asset assumptions supporting certain transactions, we would appreciate a broader discussion at the Fall National Meeting related to situations where assets are being held at appropriate levels (such as at the US statutory reserve) and with transparency into those assets and their assumptions. For example, we recommend removing modified coinsurance where fully

¹ ACLI views Pension Risk Transfer as included within Immediate Annuities and Deferred Annuities

² Yearly renewable term transactions as defined by *SSAP 61R – Life, Deposit-Type and Accident and Health Reinsurance* only transfer mortality/morbidity risk for a premium that varies each year with the amount of risk and age of insureds. This form of reinsurance does not transfer permanent plan reserves and thus should be considered out of scope for asset intensive reinsurance.

admissible assets equal to the full US statutory reserve are held on the cedant's balance sheet, given the level and transparency into the assets held. Additional reinsurance arrangements would have similar logic, so we would like to better understand regulator concerns around such structures. At a minimum, the structures should be considered as part of the assessment of risk and the mitigants available to address those risks.

In addition to excluding counterparties that are VM-30 filers from scope, we also recommend excluding counterparties that can demonstrate "VM-30 equivalence" in the reporting to their domestic regulator. This concept would need to be a defined term in the Guideline, and we would like to work with regulators to establish what information would need to be disclosed to achieve this equivalence.

Proposed language for these changes can be found in Appendix A.

Further, we suggest a greater emphasis on the relationship between scope and level and degree of rigor of any subsequent analysis. This could include the consideration of whether reinsurance transactions have been subject to regulatory approval (by cedant and/or assuming entity regulator), the company's existing stress testing, ongoing experience monitoring, supporting collateral balances, recapture analysis, and other similar analyses in lieu of further testing. We will provide additional considerations in our next letter.

Aggregation

Aggregation is a critical component in AAT, and that principle should carry over in this Guideline. For cash flow testing or an alternative analysis, the Appointed Actuary should be allowed to aggregate all treaties within a counterparty at their discretion, including treaties that are not otherwise in scope (such as those before the cutoff date). Aggregation should be consistent with Section 3.1.4 of ASOP 22 (allowance of aggregation of ". . . reserves and other liabilities for multiple blocks of business if the assets or cash flows from the blocks are available to support the reserves and other liabilities of the aggregated blocks of business"). Further, given our understanding that this is intended as a disclosure requirement, we do not believe that definitions for "Deficient Block" or "Sufficient Block" are necessary, and we would recommend striking them.

While these are our initial thoughts, ACLI has been discussing a framework for how the scope could be correlated with rigor, and we look forward to working with regulators and NAIC staff on this aspect. Additionally, we are continuing to evaluate alternative solutions that could address regulator concerns related to the amount of reserves and types of assets supporting life insurance business that relies substantially on asset returns.

As we understand this to be an iterative drafting and revising process, ACLI would again like to thank you for the opportunity to provide this feedback and we look forward to continued conversations with regulators as we begin to finalize Scope, Aggregation, and the other remaining issues that must be addressed prior to implementation.

Much appreciated,



Colin Masterson

cc: Scott O'Neal, NAIC

Appendix A - Proposed Edits to Draft Actuarial Guideline:

[Replace Section 2 Scope with the following]

2. Scope

This Guideline shall apply to all life insurers with:

A. Asset Intensive Reinsurance Transactions that:

- (i) Are ceded to entities that have **not** submitted a VM-30 memorandum or VM-30 Equivalent Report to their domestic regulator in transactions established 1/1/[YEAR]³ or later; AND
- (ii) is **not** fully secured by collateral qualified under the NAIC Model Regulation on Credit for Reinsurance; AND
- (iii) Meet any of the criteria determined by counterparty in subsections (1) through (4) below:
 - (1) Combined reserve credit⁴ in excess of \$5 billion
 - (2) Combined reserve credit³ in excess of:
 - a) \$1 billion, and
 - b) 2% of ceding company gross reserves⁵
 - (3) Combined reserve credit³ in excess of:
 - a) \$100 million, and
 - b) 10% of ceding company gross reserves⁴
 - (4) Combined reserve credit³ in excess of:
 - a) \$10 million, and
 - b) 20% of ceding company gross reserves⁴

[New Section 3.A Definition with existing definitions relabeled]

Asset Intensive Reinsurance Transactions (“AIRT”) - Coinsurance arrangements involving life insurance products that transfer significant, inherent investment risk including credit quality, reinvestment, or disintermediation risk as determined by Appendix A-791 of the Life and Health Reinsurance Agreements Model Regulation.

[Remove Section 3.B “Deficient Block” and 3.F “Sufficient Block” with existing definitions relabeled]

[Replace Section 7 Aggregation Considerations with the following]

7. Aggregation Considerations

A. When performing quantitative analysis with respect to this Guideline, the Appointed Actuary may aggregate all treaties within a counterparty at their discretion and consistent with Section 3.1.4 of ASOP 22, including treaties that are not otherwise in scope (such as those established before 1/1/[YEAR]).

³ ACLI recommends prospective application of the requirements

⁴ Reserve credit determined based upon the statutory annual statement filed by the ceding company for the prior year. Including funds withheld and reserve credit would be double counting certain amounts on funds withheld treaties

⁵ Gross reserves include separate accounts where the life insurance company retains investment risk plus Exhibit 5 gross life insurance and gross annuity reserves

**Brian Bayerle**

Chief Life Actuary

202-624-2169

BrianBayerle@acli.com**Marc Altschull**

Senior Actuary

202-624-2089

MarcAltschull@acli.com**Colin Masterson**

Policy Analyst

202-624-2463

ColinMasterson@acli.com

October 11, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)
Fred Andersen,
Minnesota Department of Commerce

Re: AAT for Reinsurance Actuarial Guideline Draft – Remaining Sections beyond Scope and Aggregation

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide additional feedback on the recently exposed Asset Adequacy Testing (AAT) for Reinsurance Actuarial Guideline Draft (Guideline) that was exposed by LATF shortly after the NAIC 2024 Summer National Meeting in Chicago, Illinois.

This letter should be viewed in conjunction with our comment letter dated October 3 that focused on Scope (Section 2) and Aggregation (Section 7). The following describes our position with respect to the remaining sections beyond Scope and Aggregation consistent with that prior letter. As noted in our previous comment letter, the interconnected nature of the sections requires appropriate alignment of scope, assessment of risks, and degree of analysis, and our remarks are based on our current understanding of regulator concerns and in line with our view on scope.

As stated in our prior letter, our comments are provided with an understanding that the results of the analysis required by this Guideline would not be binding but would instead give the Appointed Actuary, domestic regulator, and interested regulators greater transparency into the risks

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States.

acli.com

associated with the reinsurance counterparties and inform Appointed Actuaries' assessment of reinsurance counterparties.

While we are providing specific commentary on some of the text in the draft Guideline, we wish to focus on 3 "big picture" topics to help guide the next discussion.

Topic 1: Availability and Applicability of Data

Consistent with prior written and verbal comments, we are concerned about the availability and applicability of data for existing treaties that the current draft Guideline assumes is available. Specifically, the Guideline seems to require insight into the assuming company's reserves, assets, and assumptions that might not always be available to the cedant. While there are cases in which this data would be more readily available, it is not clear that it is available in all instances.

While some aspects of this information may be available on a prospective basis at some future date, the question remains regarding the appropriateness of the data. The assumptions developed by the assuming company in many instances do not solely rely on the cedant's information. Further, given the proprietary nature of many of these assumptions, providing this information can lead to competitive issues.

We note that regulators may have other avenues to gather assumption data. For example, in our proposed "VM-30 Equivalence", US regulators could identify the information on data and assumptions they believe is necessary for their analysis while maintaining the confidentiality of such proprietary data. For affiliate transactions, Supervisory Colleges can provide a forum for the types of information sharing that may be beneficial to US regulators; for example, the cedant's domestic regulator and BMA or CIMA will be at the table for an international company with entities domiciled in those jurisdictions.

This assumption on availability of data significantly impacts both the attribution analysis and cash flow testing capacities of the cedant, and concepts behind the definitions (Section 3) of "Total Reserve", "Reserve Decrease", and "Attribution Analysis".

Topic 2: Attribution Analysis (Section 6)

The limitations on availability of data impacts the ability of the cedant to perform Attribution Analysis when deemed appropriate by the Appointed Actuary. Notably, lacking reserve balances and asset and liability assumptions from the assuming company may make attribution of adjustments from Pre-reinsurance Reserve to Total Reserve unfeasible for existing reinsurance transactions.

Consistent with our comments on the July 25, 2024, LATF call, we believe this effort would be better served by allowing the cedant to attribute to their own "best estimate". This approach would be similar to the Impact of Margins analysis in VM-31 Section 3.D.11 for life insurance and Section 3.F.13.d for variable annuities, with further adjustments made for differences in statutory bases between the jurisdictions. We provided a version of a template (also included with this submission) that reflects this approach. Further, as companies may already have their own internal analysis on attribution, other formats besides the general template should be acceptable for submission.

We note that even with an approach linked to cedant best estimate, there may still be situations where such attribution would be challenging for companies. We request that a company be able, but not required, to provide an analysis with a higher degree of rigor than attribution analysis.

Topic 3: Cash Flow Testing

Companies have had concerns regarding the proposed cash flow testing since the initial discussions of the proposal. Our understanding is that regulators would like to have the cedant perform cash flow testing using information (including asset mix, asset assumptions, liability policy behavior assumptions, etc.) from the assuming entity. In many instances, the assuming entity would consider such data to be proprietary and generally not made available to the cedant. Further, we have concerns for transactions such as business divested through reinsurance transactions that the Appointed Actuary for a cedant may need to use assumptions that purely rely on the assuming entity, or worse, use assumptions that may not align with the experience of the business within the reinsurance transaction. We are concerned this undermines the value of the Appointed Actuary's work and does not seem to provide a value-add to them or their regulator reviewing this information.

We think that, given these concerns, to the extent that the Appointed Actuary determines cash flow testing is appropriate (given the risks associated with the transaction considered against the mitigants and other "offsets" in place), significant flexibility should be provided. For example, the Appointed Actuary might consider recapture analysis (either using cash flow testing or other techniques) as the best way to assess the transactions. Further, we believe the Appointed Actuary should always be able to consider other transactions with the same counterparty in their analysis (also addressed in our previous comments on Aggregation). Finally, mitigants (such as collateral), reinsurance transaction regulatory approval, and company evaluation (including stress testing and recapture analysis) should all be considered relative to the assessed risks inherent in transactions. We are hopeful that the Minnesota inquiry will help provide greater insight to regulators on the types of mitigants and evaluations that are in place, and we are hopeful additional documentation will be beneficial to inform regulators about the risks, mitigants, and monitoring associated with transactions.

Specific Feedback on Remaining Sections:

Definitions (Section 3)

Consistent with our previous comments regarding Scope (Section 2), we suggest adding a definition of "Asset Intensive Reinsurance Transactions". Additionally, as discussed in our previous comment letter, the definitions of Deficient and Sufficient Blocks are not necessary given our understanding of the intention of the Actuarial Guideline as a disclosure requirement.

We suggest removing the references to Primary Security given this is a more stringent standard than the NAIC Model Regulation on Credit for Reinsurance.

Depending on available information, it may be appropriate to reference Reserve Credit rather than Reserve Decrease, since ceding companies know the reserve credit taken but not necessarily the reserve held by reinsurers. Given the reference to reserve credit in Scope, we would suggest including a definition for "Reserve Credit" such as the one footnoted in our previous comment letter.

Per our comments above, the definition of "Total Reserve" and "Attribution Analysis" would need to be reconsidered if applied to existing transactions given the lack of information available for some.

Risk Identification for Purposes of Establishing Analysis and Documentation Expectations (Section 4)

The draft Guideline's general guidance states that the rigor and frequency of the analysis and documentation to be performed by a cedant's Appointed Actuary should be in line with the specific reinsurance transaction's level of risk. As stated in our letter on Scope and Aggregation, ACLI fully

supports this kind of correlation as it relates to the level of rigor found in the analysis. Regarding frequency, however, we suggest a different approach. For previously assessed transactions where regulators deem the cedant's initial assessment and analysis to be sufficient, companies should instead be allowed to engage in monitoring to avoid duplicative efforts that are not administratively and financially feasible to perform and do not result in any new insights for regulators.

Section 4 brings in the concept of considering whether an assuming company provides a VM-30 Actuarial Memorandum to U.S. regulators. Consistent with our suggestion in our proposed Scope that VM-30 filers be exempt from the requirements in any future Guideline, we would suggest also considering whether a company provides a "VM-30 Equivalent" type of document for transactions with assuming companies who are not VM-30 filers, particularly with respect to qualifying reciprocal jurisdictions. Such reporting, like that which is provided to jurisdictions like the Bermuda Monetary Authority, could contain much of the same information as a VM-30 report that is helpful to regulators and should be viewed with equivalent levels of deference.

Analysis and Documentation Expectations in Light of Risks (Section 5)

ACLI believes that the more effort-intensive analysis requirements of the Guideline should be targeted, as this will allow regulators to focus on their primary concern of preventing damaging insolvencies. Scoping in immaterial treaties will simply create additional, unnecessary, low value work without substantial benefit and distract focus from more material treaties. As mentioned previously, transaction riskiness should be assessed by the Appointed Actuary after considering all information available related to risks, mitigants, and other considerations. In this scenario, the more inherent risk found in a reinsurance transaction being analyzed, a company would have to perform increasingly rigorous analysis as they move along the risk spectrum, starting with no additional disclosures beyond what is required in AG 53 and ASOP 11, increased Appointed Actuary reporting and documentation, attribution analysis (or an alternative comparable analysis), and cash flow testing (or an alternative analysis).

An important note that we will add is that for some companies, cash flow testing may be easier to perform than something like attribution analysis, so we are also proposing that companies be allowed to choose the type of analysis they want to perform, provided that it meets the necessary degree of rigor.

Section 5 also states that some aggregation may be allowed between treaties for a single counterparty subject to the considerations in Section 7. Given that aggregation has been considered for Scope, we would suggest that the same level of aggregation apply throughout the Guideline when evaluating rigor and applying whatever analysis is required by the corresponding level of riskiness. We note that this view of aggregation is consistent with AG 53 and broader applicability of Asset Adequacy Analysis.

Similarly, 5.D. notes that the domestic commissioner continues to have the option to require CFT for individual treaties or counterparties, as they may deem necessary to understand and evaluate risk. While we acknowledge it is the domestic regulator's prerogative to have additional requirements, it is imperative that regulators work towards a consensus on the objectives and anticipated future steps of this effort to reduce the potential for conflicting requirements between states.

More potentially troubling language is present where the Guideline mentions "Where information on cash flows or any aspect of the analysis is not available, the Appointed Actuary may use simplifications, approximations, and modeling efficiency techniques if the Appointed Actuary can demonstrate that the use of such techniques does not make the analysis results more favorable." ACLI believes this is VM language that doesn't seem to fit with the remainder of the Guideline and

raises a number of questions (If Appointed Actuaries don't know something, how do they make sure the approximations are not more favorable? More favorable than what? And, since we cannot demonstrate that, what is the remedy to lack of information?). With this in mind, we instead propose language suggesting that any such simplification be documented with respect to potential impact to the analysis.

Editorially, since there is a separate section of the exposure (Section 8) dedicated to this topic, ACLI would also like to suggest that the title of the Section be changed to "Analysis in Light of Risks".

Documentation (Section 8)

A key statement within the current Section 8 is that if cashflow testing is performed, ceding companies should present results and key assumptions from their New York 7 (NY7) work, along with other results the company selects to disclose. ACLI believes pointing to such a specific regulatory requirement is inappropriate in this context, as not all companies run the NY7, nor is it a requirement. Results of these scenarios may not produce meaningful results, for example if a company has significant equity or foreign currency exposure. New York has also modified their scenario definitions, leaving this long-understood term now to be a bit more ambiguous. We suggest striking references to NY7 from the Guideline.

We believe that the documentation required for the Guideline should reflect, to the extent transactions are in scope, the risks, mitigants, and evaluations reviewed in the Appointed Actuary's assessment of rigor, plus any documentation, attribution analysis, and results of any cash flow testing analysis where appropriate.

We appreciate the opportunity to submit these comments and look forward to engaging with LATF as this effort continues.

Much appreciated,



B. Bonfanti Mark N. Altschall Colin Masterson

cc: Scott O'Neal, NAIC



October 11, 2024

Via Electronic Mail to: soneal@naic.org

Cassie Brown, Chair
Life Actuarial (A) Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500 Kansas City, MO
64106-2197

RE: AAT for Reinsurance Guideline Draft

The Bermuda International Long Term Insurers and Reinsurers (“**BILTIR**”) thanks the task force for the opportunity to comment on the exposed AAT for Reinsurance Guideline Draft.¹ BILTIR’s mission is to support the long-term insurance and reinsurance industry’s growth and success in Bermuda and globally, and in doing so is committed to engaging with the NAIC and state regulators regarding reinsurance reserves standards of relevance for the global reinsurance market. Because the draft guideline is focused on life sector reinsurance, we submit that BILTIR’s ongoing input will be valuable to assessing and developing approaches to ensure they do not restrict the ability of reinsurance to support the availability of retirement products to U.S. consumers.

Bermuda’s Regulatory Regime and Solvency Protections

Underpinned by a well-capitalized industry, decades of reliably supporting the general insurance markets, and the robust regulations developed by the Bermuda Monetary Authority (“**BMA**”) that further strengthen policyholder protections, Bermuda is emerging as a model for other jurisdictions and is a positive force in helping address the retirement protection gap which numbers in the trillions worldwide.

Bermuda provides a stable regulatory climate while encouraging innovation and investment. Beginning in 2013, the BMA introduced comprehensive regulations for the long-term sector that resulted in Bermuda being awarded equivalence under the European Solvency II regime. The NAIC also recognizes Bermuda as both a Qualified Jurisdiction and Reciprocal Jurisdiction, a recognition that is revisited annually and that includes all sectors. Bermuda’s regulations feature a comprehensive model risk framework with a risk-based supervisory approach, and

¹ BILTIR represents the long-term insurers and reinsurers in Bermuda. Backed by Bermuda’s over 40-year history of providing insurance solutions at the forefront of the evolving long-term insurance industry, BILTIR represents the policy interests and drives advocacy for the market and its members. BILTIR membership is comprised of more than 70 annuity, life insurance, and reinsurance businesses and servicing companies on the island. More information about BILTIR is available at <https://www.biltir.com>.

were updated in 2023. To date, public indications are that the update has been well received by U.S. regulators who are re-assessing Bermuda’s Qualified and Reciprocal Jurisdiction status pursuant to the NAIC’s annual process. That re-assessment provides a forum to comprehensively review the regulatory regime, rather than conduct piecemeal inquiries into aspects of it.

The assets backing Bermuda-based liabilities underscore the strength of that regime. Based on a recent survey of BILTIR membership,² 92% of assets under management held by BILTIR’s membership are rated investment-grade, and overall assets held exceed liabilities by \$231 billion. 77% of those assets have additional protection in the form of secured trusts, fund withheld or modified coinsurance, and 95% of bonds, debentures and structured assets held by membership are investment grade. Those assets meaningfully exceed liabilities, with the median solvency ratio for the long-term sector in Bermuda as of year-end 2022 at 261%, which is well in excess of required capital levels.³

The Bermuda Regulatory Framework Addresses the Task Force Goals

The Bermuda regulatory framework already addresses what appear to be the core goals of the task force.

BMA and State Regulator Collaborative Approval: Beginning in 2023 the BMA began a practice of reviewing reinsurance transactions in which a Bermuda domestic insurer assumes in force business (in some cases a Bermuda domestic insurer assumes in force business from insurers domiciled outside of Bermuda, some of which business is asset-intensive). As a part of these reviews the BMA is consulting with the ceding insurer’s domestic regulator, and in some cases the ceding insurer’s group supervisor, prior to approving the proposed reinsurance transaction. Similarly, as to reinsurance involving a U.S. domiciled insurer and its affiliate, individual transactions exceeding the size threshold identified in the state’s holding company regulations are submitted to the ceding insurer’s state of domicile for prior approval. As a result, these transactions between a U.S. domestic insurer and a Bermuda reinsurer are already scrutinized and regulated, and the regulation is normally customized to fit the nature, size and impact of the transaction on the financial condition of the U.S. domestic ceding company. Likewise, under the U.S. state holding company regulations, the U.S. regulators already have the ability to require cash-flow testing on reinsured business where deemed necessary.

Strength of Bermuda’s Liability Methodology:

The U.S. and Bermuda regulatory frameworks in different ways apply prudence to achieve the outcome of consumer protection. In Bermuda, insurance reserves (called “technical provisions”) are valued on an economic basis. There are notable similarities as well as some important differences from U.S. statutory reserves. In Bermuda, reserves/technical provisions are the sum of two components: a best estimate liability (“BEL”) and a risk margin.

² BILTIR’s survey sample of 55 companies drew from 94% of the total BILTIR members, representing invested assets of \$800 billion, as reported for the 2022 financial period (which excludes non-Bermuda assets of Bermuda consolidated groups). Total assets held by Bermuda-based long-term (re)insurers, which includes intangibles and other non-invested assets, totaled more than \$1 trillion at YE22.

³ Note that there is no substantial difference between what investments would be non-admitted and therefore not count for solvency purposes in the U.S. and Bermuda.

The BEL is a discounted, current, probability-weighted average of projected future cash flows, using updated assumptions. Discounting uses either a standard approach or the scenario-based approach (“SBA”). The standard discounting approach uses current risk-free rates plus BMA-prescribed illiquidity spreads. Accordingly, all contracts valued under the standard method use the same discount rates as of a particular valuation date.

In contrast to the standard approach, the SBA uses the illiquidity premium that is embedded in the insurer’s actual portfolio of assets used to support the block of business.⁴ Distinct from traditional risk assessment methods that often rely on historical data, the SBA emphasizes forward-looking analysis, allowing companies to model diverse scenarios, like economic shifts, regulatory changes, and catastrophic events. This ensures that insurers and reinsurers are resilient to risks associated with asset-liability mismatches, for which there is an explicit cost. By focusing on matching cash flows of assets and liabilities, the SBA enforces a rigorous asset-liability management discipline within insurers, ensuring that reinvestment assets must align with the insurer’s existing and board-approved ALM and investment policies. In doing so, the SBA not only enhances the visibility of insurers’ risk management practices, but it ensures that the resulting resilience to risk is achieved in a sustainable manner.

The BMA has placed guardrails around the use and application of the SBA, including new guardrails that were added in 2023. For example, (re-)insurers must demonstrate a high degree of cash-flow matching, and recent reforms have introduced a prior approval process. Cash-flow matching is further incentivized by the requirement to value liabilities using the market value of assets that produces zero surplus at the end of the projection under the worst of eight prescribed economic scenarios, an approach that resembles the U.S. standards for principle-based reserving and cash flow testing.

The BMA also limits the types of assets that can be used within the SBA. For example, the BMA requires that nearly all SBA assets have a fixed maturity date. The BMA further prescribes most asset default and downgrade costs, which are subtracted to derive the implicit illiquidity premium. Reinvestment assumptions must be consistent with the insurer’s existing asset portfolio, and no “unsellable” (highly illiquid) assets may be assumed to be sold to meet cashflow shortfalls throughout the entirety of the projection.

The BMA also has liquidity risk management, stress testing, governance, model risk management, and documentation provisions that are tailored to users of the SBA.

The risk margin, which is added to the best-estimate liability, is intended to reflect the compensation required by risk-averse capital providers to bear the uncertainty inherent in the insurance liabilities. The BMA requires insurers to calculate the risk margin using the cost-of-capital method, using a 6% cost of capital rate. The BMA’s approach is consistent with international frameworks such as the European Solvency II regime and IFRS reporting. We believe it is essential for the task force to consider framework differences, both conceptual and technical, before concluding that U.S.-style asset adequacy testing is appropriate to assess liabilities that are reinsured to Bermuda. We also encourage consideration of the total level of financial resources (including both reserves/technical provisions and capital) that reinsurers hold to satisfy their obligations to cedents.

⁴ For insurers, a primary appeal of the SBA is that it limits the financial volatility that is often characteristic of long-term insurance businesses under market-based accounting and solvency regimes.

Governance for Actuarial Assumptions: The BMA prescribes stringent standards for actuarial projections. All long term (re)insurers must appoint an Actuary, being an actuarially skilled individual, for the purposes of opining upon their technical provisions. This appointment is subject to approval by the Authority. Each Actuary approval is specific to the subject insurer's application, is uniquely determined and is contingent upon the nature, scale and complexity of the insurer's business and the Actuary candidate's suitability to serve as an appointed Actuary for that insurer based upon fit and proper criteria. Fit and proper criteria includes whether, commensurate with the nature, scale and complexity of the insurer's business and the requirements and standards of the Act, the person possesses the appropriate integrity, competency, resources, qualifications and experience including being appropriately conversant with the Authority's established EBS valuation requirements and guidance material. Included in the approval process is the applicant company confirming that the appointed Actuary shall have the ability to communicate directly with the board without the need for management review or approval; and that the board shall have direct access to the Actuary. The Actuary's estimate of technical provisions and any other matters specified by the Authority are expected to be prepared in accordance with accepted actuarial practice and all applicable standards of practice of their credentialing actuarial body and the Authority's established requirements.

Collateral: Many reinsurance transactions are structured to provide collateral to mitigate credit and other counterparty risks even where not required for credit for reinsurance purposes. The level of collateral provided may, in certain cases, even exceed reinsurer or cedent reserve requirements which may be driven, in part, by whether reserves and assets are measured on a book or market value basis. Such collateral, whether it constitutes assets backing reserves or surplus, are available to support the obligations for the reinsurance liability and, for assets pledged to U.S. cedents would generally be comprised of assets meeting the definition of "admitted assets" in the relevant domiciliary jurisdiction of the cedent.

The Task Force Should Revisit the Guideline's Approach

We appreciate that the task force will be assessing the draft guideline in stages in order to focus on certain component parts. BILTIR will engage in those discussions. However, we want to state clearly our broader, more fundamental observations early in the process, both in the interest of transparency to the task force and to provide context for our more specific comments. We have several concerns about the guideline's approach to addressing asset adequacy.

The Proposal is Narrowly and Improperly Focused on Reserve Levels. What matters to consumers and to the financial system is collectability of reinsurance, rather than a narrow focus on level of reserves. This collectability is supported by both reserves as well as capital held in the system, whether that capital is held in trust or elsewhere.


Likewise, the focus on reserves depends upon an inaccurate characterization of reserve assumptions. Not every jurisdiction's valuation regime uses assumed returns on a company's own assets, and Bermuda is a case in point. As discussed above, some business is valued using the SBA, which employs discounting using own asset returns (with various adjustments), while non-SBA business is valued using risk-free rates plus an illiquidity premium.

Adopting a Disclosure-based Approach: A disclosure-based approach would increase transparency to meet regulator needs, but without disrupting the reinsurance market. Such a

disclosure-based approach would still enable regulators to identify one-off transactions that are overly risky or premised on aggressive asset return assumptions.

We thank the task force for considering our perspective and look forward to continued input and serving as a resource as the task force moves ahead. We are happy to address any questions you may have, and to offer further input as discussions continue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne Williams-Charles', with a large, stylized flourish extending to the right.

Suzanne Williams-Charles
BILTIR Executive Director



October 3, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Dear Chair Hemphill:

Thank you for the opportunity to provide comments on the Life Actuarial (A) Task Force (LATF) AAT for Reinsurance Actuarial Guideline Draft exposure. I write as a representative of the Cayman International Reinsurance Companies Association (CIRCA). Founded in October 2020, CIRCA is now made up of over 60 members. The association is dedicated to promoting collaboration, advocating for regulatory excellence, and driving educational initiatives in the Cayman Islands' reinsurance sector. I have taken the liberty of including an Appendix to this letter that provides information about the Cayman Islands Monetary Authority (CIMA) which we feel is helpful additional context when reviewing our feedback.

CIRCA has been closely following the discussions occurring at LATF regarding asset adequacy testing for reinsurance and the development of the current exposure. After review from our members and ongoing discussions with interested parties, CIRCA has developed initial feedback below for the requested initial exposure, Section 2, Scope and Sections 5.C and 7, Aggregation.

Section 2, Scope

According to the exposure, LATF is contemplating applying either a narrow or broad scope to the Actuarial Guideline. CIRCA encourages LATF to adopt a narrow scope, as outlined in Option 1. Also, our members suggest including a provision that would allow for entities that provide disclosures comparable to VM-30 to their regulator be out of scope for the Actuarial Guideline. Specifically, if an assuming reinsurer provides to their regulator a technical document which is consistent with the methodology, nature, and overall purpose of the VM-30 Actuarial Opinion and Memorandum Requirements, then the reinsurance ceded to that reinsurer should be excluded from the scope of this Actuarial Guideline proposal.

As currently drafted, the Actuarial Guideline exposure appears to focus on situations where the reserves set by the assuming reinsurer are materially lower than the U.S. Statutory Reserve ceded by the ceding company. CIRCA contends that what matters to the ceding company is the level of contractually obligated assets they have unfettered access to in order to satisfy the ceded policyholder obligations. Therefore, CIRCA recommends that the Actuarial Guideline exclude from its scope transactions where the contractually obligated assets supporting the ceded risk are no less than the ceded U.S. Statutory Reserve. This would include Modified Coinsurance or Coinsurance Funds Withheld where those assets remain in the ceding company's possession and on their balance sheet or Coinsurance supported by a reserve credit trust compliant with NAIC Model 785.

If such transactions are not fully excluded, we recommend that the focus of analysis of the transaction by the Appointed Actuary be on the committed asset level, reflecting any overcollateralization contractually provided by the reinsurer, available to the ceding company



and not the stated reserve for the risk held by the reinsurer assuming another accounting basis. If the contractually required collateral is used in place of that stated reinsurer reserve in the provided Attribution Analysis spreadsheet, the result would be a total volume of supporting assets greater than or equal to the reserve which CIRCA believes would result in the transaction posing a low risk.

Sections 5.C and 7, Aggregation

CIRCA members believe that any aggregation requirements set out in the Actuarial Guideline exposure should be consistent with those applicable to the aggregation requirements outlined in VM-30 and relevant actuarial guidance. LATF should apply consistent aggregation requirements for their disclosures, regardless of whether the reinsurance transaction is ceded to a domestic or offshore reinsurer.

The testing should include all contractual resources for a transaction, including the reserves held by the reinsurer, coinsurance funds withheld, comfort trusts and any other form of NAIC Model 785 compliant contractual support. Ceding companies often negotiate overcollateralization as an additional layer of protection so CIRCA would also recommend assets supporting the overcollateralization to be available in any AAT analysis of the ceded business.

Other Comments

Also, both Primary Securities and Other Securities as described in AG 48 (4D and 4E, respectively) should be included as “Acceptable Assets” in support of policyholder obligations, consistent with permissible investments in the relevant regulator’s state. For reference, in AG 48 Section 4E, Other Securities are defined to be: “Any asset, including any asset meeting the definition of Primary Security, acceptable to the Commissioner of the ceding insurer’s domiciliary state.” On this point, CIRCA would like to highlight that ceding companies negotiate investment guidelines with the reinsurer as a protection to meet their policyholder obligations. Assets held on the ceding company’s balance sheet under Modified Coinsurance or Funds Withheld will be such that the company is compliant in total under the domiciliary state’s investment limitations. Reserve credit trusts supporting Coinsurance transactions are even more restrictive, limiting the assets in the trust to SVO-rated, cash or cash equivalents, letters of credit from a qualified institution, or other assets as specifically authorized by the ceding company’s domiciliary commissioner. All assets supporting the ceded business are held in the U.S.

As stated above, CIRCA appreciates the opportunity to provide comments to LATF and thanks you for your consideration. We welcome any opportunity to discuss these and any other points further as the Task Force deems appropriate.

Sincerely,

David C. Self

Chair of Board of Directors
Cayman International Reinsurance Companies Association.



Appendix – The Cayman Islands Monetary Authority

The Cayman Islands Monetary Authority (CIMA) is the primary regulator and supervisor of the financial services industry in the Cayman Islands. In its supervisory role, CIMA is responsible for monitoring the activities of its domestic and international licenses through integrated risk-based supervisory approach of onsite and offsite supervision. CIMA has a long history of international cooperation and leadership in international regulatory policymaking and standard setting. CIMA is a founding member of the International Association of Insurance Supervisors (IAIS), and member of its Reinsurance task force responsible for the creation of the international reinsurance regulatory standards (ICP 13). CIMA has been a member of the International Organization of Securities Commissions (IOSCO) since 2009 and participates in international initiatives with the NAIC, Organization for Economic Cooperation and Development (OECD), Financial Action Task Force (FATF) and International Monetary Fund (IMF).

The provision of assistance to overseas regulatory authorities is one of CIMA’s principal functions. Such international cooperation takes place primarily through the exchange of information, facilitated through Memorandums of Understanding (“MOUs”), other agreements and through CIMA’s active participation in international forums. CIMA has 70+ bilateral and multilateral cooperation arrangements with international regulatory authorities, including an MOU with the NAIC and direct MOUs with other state regulators. CIMA is also a signatory of the IAIS Multilateral Memorandum of Understanding which allows CIMA to cooperatively exchange information with other signatories.

According to Section 9(1)(a) of the Insurance Act and the Actuarial Valuations Rules and Statement of Guidance, each Cayman Islands licensed life and annuity reinsurer is required to provide CIMA with an annual Actuarial Valuation Report that is compliant with the requirements of the IAIS. The Actuarial Valuation Report is a detailed test of solvency, requiring an actuarial analysis of the valuation of the assets and liabilities as well as capital adequacy of the company. Various stress testing that reflects the risks of the business must be included in the analysis. This Report is prepared by the Appointed Actuary and reviewed by the Peer Reviewing Actuary. Both roles must be approved by CIMA, at the time of the licensing of the company and for any ongoing changes within the roles. The criteria used by CIMA when determining whether to recognize or approve an actuary are set out in the CIMA Regulatory Policy on The Recognition and Approval of an Actuary.



October 11, 2024

Rachel Hemphill,
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Dear Chair Hemphill:

Thank you for the continued opportunity to provide comments on the Life Actuarial (A) Task Force (LATF) AAT for Reinsurance Actuarial Guideline Draft exposure. I write as a representative of the Cayman International Reinsurance Companies Association (CIRCA). Founded in October 2020, CIRCA is now made up of over 60 members. The association is dedicated to promoting collaboration, advocating for regulatory excellence, and driving educational initiatives in the Cayman Islands' reinsurance sector.

We most recently commented with regard to Scope and Aggregation. This week CIRCA is taking the offered opportunity to address other items within the exposure draft. These other items are the definitions of Total Reserve and Primary Security.

Total Reserve

CIRCA has emphasized in our previous letters that all of our transactions are fully collateralized. The ceding company has possession of or contractual access to assets with a value equal to or in excess of the ceded U.S. Statutory Reserve. The assets committed by a reinsurer to a transaction (and available to a ceding company in the event of a recapture) is this collateral value and not the reserve posted in its financials. We stated previously our assertion that fully collateralized agreements should be out of scope but, absent this treatment, we strongly believe the definition of Total Reserve in 3.G. should be:

Total Reserve – (a) The reserve held by the ceding company, plus (b) the greater of (i) the reserve held by the assuming company; or (ii) the total contractually obligated resources by the reinsurer for the benefit of the policyholder; less (c) the amount of reserves held by the assuming company supported with assets other than Acceptable Assets (to be addressed in next section).

The contractually obligated resources may include assets held on the ceding company balance sheet supporting risks ceded under modified coinsurance or coinsurance with funds withheld. It also can include clean, irrevocable, unconditional and “evergreen” letters of credit from qualified U.S. institutions or assets held on the reinsurer’s balance sheet but in the U.S. with a trustee in a reserve credit trust. Further, it often includes contractual levels of overcollateralization held for the benefit of the ceding company.

This modification to the Total Reserve definition would then be used in determining Reserve Decrease (3.E.), in performing Cash Flow Testing (5.A.), in performing Attribution Analysis (6.A.) and in evaluating Relevant Risks (4.B.)



Primary Security

We commented on this definition in our last letter but would like to reiterate our position. In 3.D. we would recommend defining and using “Acceptable Assets” to include both Primary Securities and Other Securities as described in AG 48 (4D and 4E, respectively). This is consistent with permissible investments in the relevant regulator’s state. For reference, in AG 48 Section 4E, Other Securities are defined to be: “Any asset, including any asset meeting the definition of Primary Security, acceptable to the Commissioner of the ceding insurer’s domiciliary state.”

CIRCA again appreciates the opportunity to provide comments to LATF and thanks you for your consideration. We welcome any opportunity to discuss these and any other points further as the Task Force deems appropriate.

Sincerely,

David C. Self

A handwritten signature in blue ink, appearing to read "David C. Self", is written over a circular blue stamp or seal.

Chair of Board of Directors
Cayman International Reinsurance Companies Association.

Missouri prefers the narrow and specific scope under Option 1 and will offer the following comments:

2A:

a) We need to take out the reference to VM-30. Exempting reinsurance transactions to US reinsurers through this VM-30 reference creates an unlevel playing field for covered agreement reinsurers and could run afoul of the covered agreement. By removing the VM-30 reference we are focusing only on the reinsurance transaction itself regardless of the location of the reinsurer.

b) The size factors are very small so we suggest increasing them and adding a catch all (5) for small companies that might have transactions that otherwise not hit the transaction size but still be material to them. The revision is summarized below:

MO's revised Scope			Original Scope		
	reserve credit (\$M)	% of GR		reserve credit (\$M)	% of GR
1	5000		1	5000	
2	1000	5	2	1000	2
3	500	10	3	100	10
4	100	20	4	10	20
5		50			

c) Reserve credit is determined irrespective of the amount of fund withheld. We suggest remove the reference to fund withheld in the scope criteria.

2B: We suggest deleting the verbiage in B(1) and B(2), which appears to be redundant. LATF can add additional guidance to significant collectability risk as it sees fit.

2. Scope

OPTION 1: Narrow scope, some analysis expected for all treaties in the scope

This Guideline shall apply to all life insurers with:

A. Reinsurance ceded to entities ~~that are not required to submit a VM-30 memorandum to US state regulators in~~ **for** treaties established 1/1/2016 or later that meet any of the criteria determined ~~by~~ **for** ~~each~~ counterparty in subsections (1) through ~~(4)~~ **(5)** below:

(1) In excess of \$5 billion of **combined** reserve credit ~~or funds withheld or~~ **and**-modified coinsurance reserve **ceded**

(2) Combined reserve credit, ~~funds withheld,~~ and modified coinsurance reserve **ceded** in excess of:

(a) \$1 billion and

(b) ~~25%~~ of ceding company ~~gross~~-Exhibit 5 gross life insurance plus gross annuity reserves

(3) Combined reserve credit, ~~funds withheld,~~ and modified coinsurance reserve **ceded** in excess of:

(a) ~~\$1~~**500** million and

(b) 10% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

(4) Combined reserve credit, ~~funds withheld,~~ and modified coinsurance reserve in excess of:

(a) \$~~10~~**0** million and

(b) 20% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

(5) Combined reserve credit, ~~funds withheld,~~ and modified coinsurance reserve ceded in excess of 50% of ceding company ~~gross~~ Exhibit 5 gross life insurance plus gross annuity reserves

B. Reinsurance ceded to entities, regardless of treaty establishment date, that results in significant reinsurance collectability risk

~~(1) For year-end 2025, significant reinsurance collectability risk is determined according to the judgment of the ceding company's Appointed Actuary~~

~~(2) For year-end 2026, [placeholder for more objective guidance?]~~

OPTION 2: Broader scope for the AG, details on whether analysis is expected is contained in the Analysis sections

~~This Guideline shall apply to all life insurers with combined reserve credit, funds withheld, and modified coinsurance reserve in excess of: \$10 million or 20% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves.~~

PETER GOULD

September 19, 2024

Life Actuarial (A) Task Force
NAIC

Re: Reinsurance Asset Adequacy Testing Concepts - <https://content.naic.org/sites/default/files/inline-files/Straw%20Man%20Draft%20-%20AG%20ReAAT%20-%20LATF%20081124.pdf>

Dear Members of the LATF:

I am a retiree and am writing to comment as a consumer and annuity contract owner with skin in the game. My wife and I depend on Guaranteed Lifetime Withdrawal Benefits from Roth IRA variable annuities for a considerable portion of our retirement income. We did not purchase annuities as speculative investments.

As an annuity owner, the insurer's obligations to me are spelled out in my contracts. However, there are no provisions in my contracts that protect me or provide me rights to prevent my insurer from becoming insolvent or unable to meet their contractual obligations to me. **Consumers rely entirely on state regulators** to adopt and enforce regulations that **proactively and effectively** prevent impairment of insurers' solvency, inability of insurers to honor their contractual obligations to policyowners and failures of insurers.

With respect to reinsurance and counterparty transactions by which risk is transferred to a third party, I'm totally dependent on state regulators to ensure that the invested assets of the reinsurer are adequate to support the ceded reserves so that the money is there when I submit a claim.

Reinsurance and counterparty transactions frequently result in substantial reductions to Total Asset Requirements (TAR). Without your oversight and regulation, these practices increase the likelihood that I will outlive my insurer and that my contractual benefits (bought with my hard-earned dollars remitted as premiums) will not be paid to me when I need them. I don't want to be left "holding the bag", like the 92,000 PHL Variable Life policy owners.

I strongly support the broadest, most in-depth scope for these rules as possible. To that end, I offer the following comments on scope of the Straw Man Draft - AG ReAAT - LATF 081124.pdf:

1. Effective Date - To me, this is a component of scope and I support making the changes applicable to December 31, 2024 Annual Statements. Delaying the effective date until 2025 will be detrimental to consumers as it will facilitate an increase of the already exponential rate by which insurers are moving business offshore to sidestep US reserve requirements and arbitrage regulation and enforcement.

Life Actuarial (A) Task Force
September 19, 2024
Page 2

2. Scope - to cast the widest net of consumer protection, I support option 2, modified as follows:
"This Guideline shall apply to all life insurers with combined reserve credit, funds withheld, and modified coinsurance reserve in excess of the lesser of: \$1 million or 5% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves."

In addition, these rules should apply to all treaties/ceded business regardless of establishment date. There's no reason to compromise consumer protection by giving a free pass to older arrangements. Given the huge amount of reinsurance already in place and its exponential growth, it's essential to cover all such arrangements. Prior comments have suggested that it may be too difficult to assemble and analyze the data. Given the systemic risk, the incremental cost to provide this information pales in comparison to the cost of an insurer liquidation.

Thanks for your consideration of my comments and the work that you do to protect consumers.

Yours truly,

Peter Gould

Peter Gould



October 3, 2024

Rachel Hemphill, Chair
 Fred Andersen
 Life Actuarial Task Force
 c/o Scott O'Neal, soneal@naic.org

RE: Asset Adequacy Testing for Reinsurance: Comments on Scope

Dear Rachel and Fred,

The Reinsurance Association of America (RAA) appreciates the opportunity to provide input on the Life Actuarial Task Force's (LATF) AG Reinsurance Asset Adequacy Testing (AAT) Straw Man Draft 1 proposal. The Reinsurance Association of America (RAA) is the leading national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates and insurance-linked securities (ILS) fund managers and market participants that are engaged in the assumption of property/casualty risks. The RAA represents its members before state, federal and international bodies.

The RAA appreciates LATF's ongoing consideration of industry input, and we remain committed to providing LATF feedback on its efforts. We also applaud LATF and the NAIC for its enhanced coordination on workstreams impacting reinsurance. As requested, this comment letter is restricted to comments on Scope as set forth in Section 2 of the AG ReAAT Straw Man Draft 1 proposal (the "Guideline").

"Asset Intensive" Reinsurance Transactions

In general, we support a narrow scope for the proposed Guideline. A narrower scope enables regulators to focus their attention and resources only on the "asset intensive" transactions for which regulators have expressed collectability, reserving, and asset quality concerns. To narrow the scope, we propose defining an "asset intensive" reinsurance transactions using the chart in Section 2.f. of Appendix A-791 which identifies life insurance products that have significant asset/investment risk including credit quality, reinvestment, and disintermediation risk.

In doing so, the Guideline would apply to asset intensive reinsurance transactions but not to transactions without significant asset risk such as transactions reinsuring term life business, yearly renewable transactions reinsuring only mortality or morbidity risks, and non-proportional reinsurance transactions such as catastrophic and stop-loss coverage.

Once the asset intensive reinsurance transactions are identified, the proposed thresholds in

Scoping Option 1 could be applied to determine which asset intensive reinsurance transactions are subject to the Guideline.

Retroactive v. Prospective Application

LATF has discussed whether the Guideline should apply to existing asset intensive transactions. In our view, application of the Guideline to existing asset intensive transactions should be limited, applying only to material transactions with effective dates on or after January 1, 2020. Materiality could be determined based upon the size of the transaction relative to the ceding companies' net reserves, capital and surplus or some other financial measure.

Modified Coinsurance or Coinsurance with Funds Withheld Arrangements

Scoping Option 1 of the proposed Guideline provides scoping thresholds with respect to funds withheld and modified coinsurance agreements. In our view, the Guideline should contain an exemption for modified coinsurance or coinsurance with funds withheld arrangements where the total modco and funds withheld assets held by the ceding company equal or exceed the total US statutory reserve ceded under the reinsurance contract. These assets are held by, and on the books of, the ceding company, and the ceding company has control over these assets.

LATF has expressed concern over the transparency to regulators of the assets backing the ceded reserves in asset intensive reinsurance transactions. The Statutory Accounting Principles Working Group (SAPWG) has exposed a proposal (Ref #2024-07) requiring the identification of funds withheld and modified coinsurance assets supporting reinsurance transactions. Under the proposal, ceding companies would identify these assets on a new addendum to Schedule S in the life annual statement blank resulting in full transparency of these assets to regulators. If these assets cover the US statutory reserve, there should be no concern requiring additional scrutiny.

Assets Pledged as Collateral and Meeting the Requirements for Credit for Reinsurance

Section 3 of the NAIC Credit for Reinsurance Model Law allows as an asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an unauthorized reinsurer. The reduction is in the amount of funds held by the ceding insurer or on behalf of the ceding insurer in a credit for reinsurance trust, as security for the payment of the reinsurer's obligation. The security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified U.S. financial institution. The security may be in the form of:

- A. Cash;

- B. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;
- C. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution; or
- D. Any other form of security acceptable to the commissioner.

In our view, the Guideline should allow a credit or offset against the scope thresholds for funds withheld assets, assets in trust, or qualifying letters of credit issued by qualified US Financial Institutions so long as those assets meet the requirements for credit for reinsurance because those assets are held by, under the control of, and on the books of the ceding company.

Additionally, if the SAPWG proposal regarding the identification of funds withheld and modified coinsurance assets supporting reinsurance transactions is adopted, these assets will be identified and fully transparent to regulators.

Transactions Subject to Regulatory Approval

Certain reinsurance transactions are subject to regulatory approval by the ceding company's domiciliary regulator. Those reinsurance transactions include transactions subject to various state laws and certain affiliated transactions. We believe those transactions should be exempt from the Guideline because they are subject to regulatory approval, and during the approval process, the domiciliary regulator has the discretion to impose requirements such as cash flow testing of the reinsurance transaction as a condition to approving the transaction.

Regulators have expressed concerns regarding affiliated transactions but we are unaware of the nature of the concerns. Perhaps further discussions would be helpful in identifying those concerns. In our view, consideration should be given to these existing regulatory requirements for certain reinsurance transactions to avoid unnecessary duplication with respect to such transactions.

Reinsurance Ceded to a Reinsurer filing a VM-30 Report

The Guideline exempts reinsurance transactions ceded to a reinsurer that files a VM-30 Report. While we do not object to this exemption, the exemption practically limits the Guideline to reinsurance transactions ceded to offshore reinsurers and perhaps, onshore captive reinsurers. LATF indicated the purpose of the Guideline is to gather information. Gathering information only on offshore reinsurance transactions likely does not violate the Covered Agreements between the US and EU and the US and the UK (Covered Agreements). However, if, after gathering this information, additional requirements are imposed on



transactions between US ceding companies and offshore reinsurers located in the EU or UK, those additional requirements likely would violate the Covered Agreements. Furthermore, applying additional requirements to reinsurance agreements between US ceding companies and Reciprocal Reinsurers located in Reciprocal Jurisdictions would violate the spirit and intent of the laws and regulations adopted by all states regarding Reciprocal Jurisdictions and Reciprocal Reinsurers.

Perhaps LATF should consider an exemption for reinsurers that file a report that is equivalent to a VM-30 Report. The Guideline could identify the requirements for determining whether a report is equivalent to a VM-30 Report.

Conclusion

We urge a solution that is narrowly tailored to effectively address the concerns identified by regulators, ensuring the collectability of reinsurance. Implementation of overly broad regulatory requirements that duplicate existing regulatory tools risks the loss of needed reinsurance protection and the resulting opportunity to close the protection gap. Adding regulations that create friction and costs may discourage effective risk management through reinsurance without commensurate benefits.

The RAA continues to support LATF's work to find an appropriate solution that addresses the problem without severely disincentivizing the deployment of reinsurance capacity. Ensuring that the scope of this Guideline is appropriately tailored is a crucial first step in this process.

Sincerely,

A handwritten signature in black ink that reads 'Karalee C. Morell'. The signature is written in a cursive, flowing style.

Karalee C. Morell
SVP and General Counsel

Re-AAT Comments

John Robinson FSA, FCA, MAAA

August 26, 2024

LATF,

Thank you for the opportunity to comment on this document, which I believe is very important. The conversation started from the observation that if an insurer has modco reinsurance, in which case, it has both the assets and liabilities on their books, then the insurer should perform CFT on this block for the same reasons that it performs CFT for the other reserves on its books. The conversation has clearly gone a long way from there, and I am thankful for the progress.

Comment 1: Concerning Section 2, "Scope":

1. Option 1, Statement 2(b): "2% of ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves."

Comment: This statement, as written, can be interpreted in two ways:
(2% of ceding company gross Exhibit 5 gross life insurance) plus (gross annuity reserves).

Or

2% of (ceding company gross Exhibit 5 gross life insurance plus gross annuity reserves)

Please re-write to make it clearer which interpretation applies. Note that this phrase occurs several times, including in Option 2.

Comment 2: Concerning the choice between Option 1 and Option 2:

I am concerned that Option 1 can be defeated by the insurer simply increasing the number of counterparties participating in the reinsurance of a block of business.

Comment 3a: Definition of “Deficient Block”

This is a minor wordsmith: Instead of “When a block of business shows negative...”, say “A block of business that shows negative...”

Comment 3b: Definition of “Sufficient Block”

This is a minor wordsmith: Instead of “When a block of business shows positive...”, say “A block of business that shows positive...”

Comment 4: Definition of “Pre-reinsurance reserve”

The use of the phrase “in the absence of the reinsurance transaction” suggests that the term applies in the context of a single transaction between the insurer and reinsurer. Please assess whether the use of the term in the document is consistent with this interpretation. I suggest you apply the same consideration to the use of the terms “Total Reserve” and “Reserve Decrease”.

Comment 5: Definition of “Attribution Analysis”

This is a minor wordsmith: Since the pre-reinsurance reserve is defined to be a US statutory reserve, the phrase “U.S. statutory” in the definition of “Attribution Analysis” can be deleted.

Comment 6: Requirements

I am unclear as to what work the document requires. The Scope section identifies which companies are subject to the provisions, not which treaties are to be analyzed. The closest I can come to Requirements is Section 5A, which suggests (but does not state explicitly) that the insurer is required to perform some form of asset adequacy analysis on the Total Reserve. If the Total Reserve only pertains to a single transaction, as mentioned above, then this implies that the insurer must perform a stand-alone analysis for each transaction. I suggest you add a “Requirements” paragraph.

Thank you

Memo

To: Rachel Hemphill, FSA, MAAA, FCAS, Life Actuarial Task Force

From: Patricia Matson, FSA, MAAA, Partner, RRC
Ben Leiser, FSA, MAAA, Director, RRC

Date: October 11, 2024

Subject: RRC Comments Regarding LATF's Reinsurance AAT Actuarial Guideline Draft Exposure

Background

The Life Actuarial Task Force (LATF) is requesting comments on the AAT for Reinsurance Actuarial Guideline (AG) Draft ("the Exposure"). Per LATF's request for earlier comments regarding the Scope and Aggregation sections of the Exposure, RRC provided prior comment letters on September 19th and October 3rd. For ease of reference, we have included in this comment letter our previously submitted comments as well as comments on the remaining sections. Note that we have two additional comments on the Scope section that were not previously provided, and those are in bold font.

RRC appreciates the opportunity to offer our comments. Should you have any questions, we would be glad to discuss our comments with you and Task Force members.

We appreciate the work LATF has undertaken to address what we believe is a critical industry issue, namely the significant use of reinsurance, including offshore reinsurance, to provide US insurers with material reserve and capital relief.

RRC has assisted regulators in reviewing a variety of reinsurance transactions that result in material reductions in the total asset requirement (TAR) backing the policyholder obligations. We understand that while these transactions are executed for a variety of appropriate business and financial strategies, we also believe that in some cases they can result in reserves or capital that are reduced to a level that raises questions about their appropriateness from a policyholder protection perspective.

General Comments

We believe that when an insurer makes a promise to its direct policyholders, it is critical for the insurer to set operational and financial standards that will enable it to meet that promise. One such standard would be to ensure there are sufficient assets to pay future claims. This does not change when the insurer chooses to reinsure the business.

Based on this important promise, in a case in which an insurer uses reinsurance to reduce reserve and capital requirements that it views as overly conservative, we believe it would be reasonable to expect the insurer to continue to hold *adequate* reserves and capital, based on US statutory requirements. Based on the overall statutory framework, reserve adequacy has tended to be viewed as the level that would be sufficient under moderately adverse conditions (which may equate to an 85% confidence level). Capital would then cover conditions beyond moderately adverse, up to a higher confidence level (such as 95%).

Therefore, we believe that a goal of the Exposure (which we recognize is focused on reserves) should be

to set guardrails so that reserve financing transactions do not result in those reserves declining below a level that would be sufficient to cover policyholder obligations with approximately 85% confidence (or under moderately adverse conditions) based on the US statutory framework. This seems to be a fundamental minimum, under US statutory guidance, to meet policyholder protection while still allowing for the use of reinsurance to finance reserves.

Comments on Effective Date

We believe that additional guidance is needed as soon as feasible, and therefore we support a December 31, 2025 effective date (since sooner implementation does not appear feasible). We also support ultimately incorporating the AG into the Valuation Manual.

Comments on Scope

With respect to the two options laid out in the Exposure, RRC is in favor of “Option 1: Narrow scope, some analysis expected for all treaties in the scope.” Our rationale for this is to address the areas of concern while avoiding creating significant work for Appointed Actuaries and regulators that does not materially address the areas of concern.

Based on our experience, it appears to be a relatively small subset of all reinsurance transactions that result in a material reduction in TAR. Therefore, we are in favor of limiting the scope of the new guidance to reinsurance transactions that result in such material reduction (or may result in such reduction in the future).

We are in favor of using a size threshold as laid out in the Exposure.

We agree with exempting treaties in situations in which the reinsurer is required by law to provide a VM-30 memorandum, since such treaties are unlikely to result in a significant reduction in TAR. **The VM-30 report exclusion is valuable primarily because a counterparty reporting under VM-30 is highly unlikely to have a materially lower reserve requirement, and not because the report itself would address the areas of concern. Therefore, we disagree with excluding transactions solely on the basis that the reinsurer provides a VM-30-like report without actually being subject to VM-30.**

We agree with including any treaty that presents significant collectability risk. Potential approaches to defining such risk are:

1. Credit rating (however, we don’t believe that this alone is sufficient)
2. Solvency position (e.g. the reinsurer’s capital exceeds the regulatory intervention threshold in its jurisdiction)
3. Delays in payment on the reinsurance agreement that exceed a defined period such as 180 days

We also note that in the case of significant collectability risk, an appropriate reserve would need to take into account the potential need for the cedant to re-establish the full U.S. Statutory reserve if the reinsurer were to default. For example, if the U.S. Statutory reserve is materially higher than an 85th percentile reserve set solely based on the projected underlying asset and liability cash flows, and the reinsurer defaults, the cedant would have to hold the full statutory reserve. This should be considered by the cedant’s Appointed Actuary in their asset adequacy assessment.

LATF may want to consider exempting from scope treaties that meet the following criteria, since such treaties are unlikely to result in a significant reduction in TAR:

1. The treaty does not involve business with material investment risk (for example, YRT treaties)
2. The current and projected future reserves that will be held by the reinsurer are not materially less

than those required under the U.S. Statutory framework

We do not believe that scoping out modified coinsurance transactions or those that use a trust or funds withheld makes sense, because such transactions can result in a material reduction in assets available to fund future obligations.

Comments on Definitions

Regarding the definition of Attribution Analysis, we suggest including in the definition other anticipated significant contributors, beyond assumptions, to differences between the pre-reinsurance Statutory Reserve and the Total Reserve. Suggested language could be “...differences in individual key assumptions, underlying methodology, application of any floors, and allowances for risk offsets among policies” or similar.

Regarding the definitions of Deficient and Sufficient Block, we suggest clarifying that the cash-flow testing scenarios are those used under a US Statutory Framework. In other words, the assessment of sufficiency and deficiency is based on the US Statutory cash flow testing approach.

Comments on Risk Identification

We agree with the criteria outlined for determination of the relative level of risk, and with the concept that higher risk should imply more rigorous and frequent analysis by the Appointed Actuary.

Another risk that may be worth consideration is the risk profile of the assets backing the liabilities post reinsurance transaction. Suggested language could be “A significant change in the investments or investment strategy that results in higher risk or higher volatility in the current or future asset portfolio.”

Comments on Analysis and Documentation in Light of Risks

We believe that cash flow testing should be mandatory in instances in which there is a Significant Reserve Decrease (as defined in the Exposure) and “where cash flows vary under different economic scenarios” (as described in Actuarial Standard of Practice No. 22, STATEMENTS OF ACTUARIAL OPINION BASED ON ASSET ADEQUACY ANALYSIS OF LIFE INSURANCE, ANNUITY, OR HEALTH INSURANCE RESERVES AND OTHER LIABILITIES (ASOP 22)).

As described in our General Comments above, in a case in which an insurer uses reinsurance to reduce reserve and capital requirements that it views as overly conservative, we believe it would be reasonable to expect the insurer to continue to hold *adequate* reserves and capital, based on US statutory requirements. Use of cash flow testing would be an appropriate approach to make such an adequacy assessment for business for which the cash flows are expected to vary with variation in economic scenarios. If there is a Significant Reserve Decrease and the business does not have cash flows that are expected to vary under different economic scenarios, alternative approaches as laid out in ASOP 22 (such as a gross premium valuation) would be reasonable (although there may not be many transactions that fit these criteria, as noted in item B(1) of the Exposure).

We do not believe that the existence of a trust or funds withheld should impact whether cash flow testing is performed. If there is a Significant Reserve Decrease, an assessment of asset adequacy would be needed to determine if there are sufficient assets to cover future policyholder obligations regardless of who is holding the assets.

We do not believe that review of counterparty risk/collectability alone is sufficient to address concerns regarding material reductions in TAR. The Appointed Actuary is already required to evaluate counterparty risk per the requirements of actuarial standards of practice (both ASOP 22 and ASOP 11, Treatment of Reinsurance or Similar Risk Transfer Programs Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports), and that would continue. However, review of counterparty risk alone would not address situations in which a company cedes a large proportion of its reserves to a strong counterparty that suffers a subsequent material decline in the counterparty's financial resources, resulting in the ceding company needing to recapture the business with insufficient assets available to cover TAR. In addition, if a lot of reinsured business is concentrated in a small number of reinsurers, insolvency of one or more of those reinsurers could lead to systemic risk. In light of the increasing trend to move economically sensitive business offshore, the industry could face a situation similar to the current long term care crisis, i.e., without sufficient total assets available to pay policyholder claims. We support requirements for the Appointed Actuary to directly assess the adequacy of the invested assets backing the ceded reserves.

We also note (as stated in the Scope section above) that in the case of significant collectability risk, an appropriate reserve would need to take into account the potential need for the cedant to re-establish the full U.S. Statutory reserve if the reinsurer were to default. For example, if the U.S. Statutory reserve is materially higher than an 85th percentile reserve set solely based on the projected underlying asset and liability cash flows, and the reinsurer defaults, the cedant would have to hold the full statutory reserve. This should be considered by the cedant's Appointed Actuary in their asset adequacy assessment.

We support inclusion of the option for the domestic insurance commissioner to require cash flow testing for individual treaties or counterparties.

Comments on Attribution Analysis

Attribution analysis alone would not ensure adequate assets to cover policyholder obligations. Therefore, we do not believe that requiring disclosure of attribution analysis alone is sufficient to address this important issue. We believe that any company ceding reserves for economically sensitive business to a reinsurer has an obligation to understand how the reinsurer is managing the assets and mitigating risk. Most agreements include investment guidelines. Therefore, it seems that the Appointed Actuary should be able to gain some insight into how the reinsurer is investing. While it is true that the Appointed Actuary may not be able to obtain sufficient details to model each actual asset backing the business, reasonable approximation methods could be used. Therefore, as noted above, we are in favor of prescribing cash flow testing for economically sensitive business based on specific and defined risk-based criteria. If a US insurer is willing to write business, that insurer should be willing to ensure assets are held in support of that business at a level that covers moderately adverse conditions. This is a very reasonable minimum threshold.

If attribution analysis is used as the sole basis to address asset adequacy for reinsured business, and the use of results is left to the discretion of the individual actuary and their regulator, there may be material differences in how the results impact the amount of assets held in support of reinsured business from company to company. We believe that this is an undesirable result, as we believe there is currently industry and regulator concern regarding a "non-level playing field" due to the current significant level of discretion in how AAT is performed for reinsured business.

Comments on Aggregation

Based on our experience, the transactions that are generating regulatory concern are those in which the insurance company achieves a significant reduction in TAR. In other words, the treaty is entered into for

the express purpose of reducing reserves and/or capital. While such a transaction may be done for good business reasons, we strongly believe that there should not be adverse impacts on policyholder protection. Therefore, we believe that the assets available to cover future policyholder obligations should remain at a level that aligns with overall statutory principles. As described above, this would imply that the reserves backing the transferred business would still be set at approximately an 85% confidence level, and capital at a 95% confidence level. Therefore, we believe that standalone testing of the adequacy of the assets backing reserves for the transferred business is appropriate. Such testing would be used to ensure that the assets backing the reserves post-transaction are still adequate to cover policyholder obligations under moderately adverse conditions. This seems like an appropriate minimum standard, and would still allow companies to free up capital in situations in which formulaic statutory reserves are viewed as excessive (i.e. materially greater than an 85% confidence level). In other words, we do not support aggregation across treaties, counterparties, or with retained blocks of business.

While we recognize that current asset adequacy testing (AAT) allows for aggregation of business, the purpose of AAT is as a backstop test to ensure that the formulaic statutory reserves (which are intended to be conservative) continue to be sufficient. Therefore, the testing allows for aggregation of deficient blocks (i.e. blocks that have booked statutory reserves that are below the 85% confidence level) with sufficient ones as long as “the assets or cash flows from the blocks are available to support the reserves” (per ASOP 22, *Statements of Actuarial Opinion Based on Asset Adequacy Analysis for Life Insurance, Annuity, or Health Insurance Reserves and Other Liabilities*). We believe that in a situation in which an insurance company is proactively seeking surplus relief through a reinsurance treaty (typically because reserves are believed to be overly conservative), it is reasonable to expect that the post-transaction reserves continue to be sufficient on a standalone basis.

Comments on Documentation

We believe this section contains reasonable documentation expectations, and do not have any specific comments.

Thank you for the opportunity to provide comments on this important topic. We can be reached at 860-305-0701/tricia.matson@riskreg.com or 201-870-7713/ben.leiser@riskreg.com if you or other members have any questions.

Response to Straw Man Draft for Reinsurance AAT Actuarial Guideline

Document: [Straw Man Draft - AG ReAAT - LATF 081124.pdf \(naic.org\)](#)

Document Date: 8/11/2024

Date of response: 9/6/2024

Author: Aaron Ziegler, FSA, CERA, MAAA

Title: Chief Actuary and Appointed Actuary – Illinois Mutual Life Insurance Company

Email: ATZiegler@illinoismutual.com

To: Scott O’Neal: soneal@naic.org

Note: My response below represents solely my own opinion. No part of my response should be deemed to represent the opinions of Illinois Mutual nor the opinions of the other actuaries at Illinois Mutual.

I thank you for your time and efforts and the ability to make comments on this exposure draft.

Request:

The request for commentary was broken into a few parts:

1. For **Section 2, Scope**, please provide related comments by **Sep. 19** to allow for discussion at a Sep. 26 meeting of LATF.
2. For **Sections 5.C and 7, Aggregation**, please provide related comments by **Oct. 3** to allow for discussion at a Oct. 10 meeting of LATF.
3. Comments on the **remaining sections** are requested by **Oct. 11**.

Part 1 – Section 2 scope

The scope is broken down into two separate sections:

1. Option 1: Narrow scope, some analysis expected for all treaties in the scope
2. Option 2: Broad scope

For option 1 –

Part A: The description states that it applies for reinsurance “ceded to entities that are not required to submit a VM-30”. Maybe better would be simply to state whether the reinsurer is an “admitted” reinsurer.

I would like to see some guidance here regarding what is NOT in scope. To me: highly rated reinsurers who are “admitted reinsurers” should be excluded from the scope.

I urge caution regarding the thresholds defined in 1-4. There may be certain instances where a 5% reserve credit is too large and risky whereas a 30% reserve credit might be stable and reasonable.

Part B: I applaud the wording here. “Significant reinsurance collectability risk” ... “according to the judgement of the ceding company’s Appointed actuary.”

This is excellent phrasing each insurer (and correspondingly reinsurer) are unique. It’s important to leverage the expertise and judgement of the Appointed actuary to determine whether there is “significant collectability risk.”

For option 2

Option 2 is too broad and brings in TOO many “plain vanilla” reinsurance agreements (co-insurance on term policies) where there has been very small amounts of risk to the industry for the last 50+ years. I urge the regulators to proceed with caution when painting with a broad brush. The general tendency over the last number of years is to create onerous regulation which does little to add to the strength of the industry.

In particular, small insurance companies often have large reinsurance credits on a percentage basis. This is not necessarily a bad thing! Small companies get the benefit of experience and stability from highly rated reinsurers. Moreover, the ability for small companies to be in the market and compete with large companies benefits the consumer with lower and more competitive prices.

Suggested “Option 3” for scope

In general, the appointed actuary is responsible for the credit worthiness and reliability of the reinsurers that the company is transacting with. The wording of Option1.B is excellent, why not start there to define scope? If, in the opinion of the appointed actuary all reinsurance agreements are out of scope, a small writeup / explanation from the appointed actuary describing the thought process in the AOMR would be a reasonable request for this regulation.

Part 2 – 5C and 7, Aggregation

The regulators need to be extremely careful here. There are a number of things going on in the details which may not be aptly considered.

While 5E suggests that the actuary may use “simplifications”, I humbly ask the regulators to recognize that asset adequacy testing (AAT) is not (typically) performed on a seriatim basis (i.e. policy by policy and reinsurance agreement by reinsurance agreement). As it is, AAT is performed using a model and approximations.

On this front, many insurance companies have model point compression (lumping more than one policy together) and the process for modeling reinsurance is rarely done on a treaty by treaty basis. This is done for a number of reasons:

1. When the model points are compressed, if 5% of the business in the model point is reinsured, then the model will reimburse 5% of the benefits. It’s possible that some of these

policies in the singular model point were reinsured at 100% and some may not have been reinsured at all. Overall – the impact to the company is immaterial.

2. Even if we side-step model point compression and look instead at a singular policy – it is common for a company to share the reinsurance with more than one reinsurance company. When the financial benefits of this is modeled [“Modeled” is an important key word as this should be understood as “estimated” or “approximated”] more often than not, a simple calculation is made for a singular reinsurance benefit in the model (even though it may come from more than 1 reinsurance company).

Why is this done? It’s a model! Models are simplifications of reality. Run time, computation time, analysis time are all very expensive. Actuaries use judgement to make simplifications and efficiencies.

Is it a concern that a single policy might be reinsured by more than 1 reinsurance company but is not modeled that way? No. In fact, this is conservative! It is rare that a highly-rated reinsurer goes bankrupt, but it is even more rare that MULTIPLE highly rated reinsurers go bankrupt. So, by modeling “split company reinsurance” through a simple mechanism in a model is conservative.

Additionally, as a follow-up here, 5E suggests that the actuaries can use “modeling efficiency techniques if the appointed actuary can demonstrate that the use of such techniques does not make the analysis results more favorable.” This language is borrowed from the existing valuation manual, VM20. This is easier said than done. Reworded, this sentence suggests that in order to prove that you can use modeling efficiencies – you must model without the efficiencies first and then you can use the efficiencies. These things are not always possible. I urge the regulators to rely upon the opinion of the Appointed Actuary and his/her judgement on these matters.

Now, with this said, my comments heretofore have been primarily focused on plain-vanilla reinsurance contracts. If, however, the reinsurance agreements were highly complex and asset intensive – then perhaps a more rigorous approach to reinsurance modeling would be warranted. I recognize the importance of this and the risk of such an agreement, but I share my thoughts with the regulators because I want to make sure that the regulation does not paint with too broad of a brush putting unnecessary burden – especially on small company actuaries and simple reinsurance arrangements.

Part 3 - Comments on other sections

Section 6 describes an attribution analysis for “relevant treaties.” I’ve mentioned before, up above, but it bears repeating that plain-vanilla reinsurance is often not modeled on a treaty by treaty basis in actuarial AAT models. The analysis described, may be worthwhile for the risky and asset intensive reinsurance agreements, but regarding simple YRT or coinsurance arrangements on simple level term policies – this would be onerous and would not provide the regulators with useful information.

Section 8.A states: “If cash flow testing is performed, present New York 7 results.” Some companies are not subject to New York and therefore may not run the NY7 scenarios. Moreover, VM30 does not require nor define what the “New York 7” scenarios are. It does not seem appropriate to inherently require the NY7 scenarios through this backdoor amendment regarding reinsurance. If the regulators desire to have a fixed set of scenarios – this should be requested in VM30 directly not independently required here.

A question at the beginning of the document is of keen interest to me:

“Should these requirements not apply to reinsurance treaties established prior to a certain date? ... [this] may leave out a few substantial treaties of interest.”

Given that the regulators are already apparently aware of certain concerns with some treaties, why go the route of creating a new actuarial guideline instead of just going directly to those companies of concern? The regulators already have the authority to do this.

This is a similar problem that regulators faced when dealing with ULSG in the early 2000’s. Instead of using the regulatory powers to discipline actuaries who were creating products simply to sidestep reserve requirements, AG38 was amended and reamended ad nauseum. We must be careful not to over-regulate the industry because of a few bad actors.