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

Fred Andersen,
Minnesota Department of Commerce

Re: May 2nd Exposure of the Actuarial Guideline for Reinsurance Asset Adequacy Testing

Dear Chair Hemphill and Mr. Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the May 2nd exposure of the Actuarial Guideline for Reinsurance Asset Adequacy Testing (Guideline).

ACLI appreciates the progress on the Guideline, and we are hopeful that a few more modifications will make this ready for year-end 2025 reporting. We note the following key recommendations to meet that objective:

- Allow aggregation at the counterparty level across lines of business reflecting the benefits of diversification and risk management practices while also allowing aggregation with retained business to accurately reflect recapture risk in the analysis;
- Revise the definition of Post-reinsurance Reserve to replace the reference to Primary Security with a defined list of Excluded Assets;
- Limit scope of retrocessions from captive insurers that are not VM-30 filers to affiliated reinsurers for the captive,
- Remove the lookback to 1/1/2015 for regulator CFT exemption requirements;
- Remove the specification in Section 5.F that is inconsistent with the best efforts approach described in Section 6.I; and
- Revise the scope to align with thresholds proposed by Missouri but without the 20% of gross premium ceded threshold.

Aggregation

Aggregation is fundamental to the nature of insurance and a foundational principle of asset adequacy. We maintain that any granularity introduced by the Guideline must align with the economics of the reinsurance transactions in scope. We have heard regulators express a desire to better understand the transactions through further refinement of the aggregation requirements. However, beyond the time required to run models at a more granular level, the results produced will become less meaningful (e.g., splitting up an asset portfolio arbitrarily to run two blocks managed together separately). Similarly, requiring pre- and post-PBR business being run separately, especially when they are essentially the same liabilities, would not provide material insight to regulators.

ACLI proposes limiting first year requirements for Section 8.A to aggregation at the counterparty, which is consistent with the Guideline's scope being based on aggregation by counterparty. Additional details can be requested by regulators on a case-by-case basis.

Non-primary Admitted Assets

The Starting Asset Amount for the mandatory run of cash-flow testing is defined in Section 6.B based on the Post-Reinsurance Reserve which is defined in Section 3.G to exclude ". . . assets other than Primary Security." Primary Security is defined in Actuarial Guideline 48 (AG 48), which is narrowly intended to define the assets to be used for policies covered under Sections 6 and 7 of Model Law 830 and then only is relevant for reserve financing transactions of these types of policies with financing via various unfunded solutions. AG48 does not apply to all reinsurance transactions of policies covered under Sections 6 and 7 of Model Law 830 or other types of policies. ACLI thinks it would be appropriate that assets available to the cedant consistent with VM-30 (i.e., admitted assets for the cedant) should be included in the Starting Asset Amount for the mandatory run of cash flow testing. We recognize that there are likely specific asset types that regulators would not want reflected in this analysis.

We suggest defining "Excluded Assets" to specify assets that should be excluded from the Starting Asset Amount. Excluded Assets should consist of the following:

- Assets permitted to be admitted by the ceding company's domiciliary regulator but which are otherwise non-admitted
- Unfunded solutions (e.g., Letters of Credit, Excess of Loss, Parental Guarantees, Affiliate Unfunded Financing Arrangements)

Retrocessions from Captives

Given year one is intended to be best efforts, we recommend limiting the scope of retrocessions. In the case of retrocessions resulting in further reserve reductions, ACLI suggests that the look through scope be limited to retrocessions from captive insurers that are not VM-30 filers to affiliated reinsurers for the captive. This would be more feasible than applying the analysis to the ultimate assuming reinsurer, where the captive would not have the same degree of transparency into the reserves or assumptions.

Regulator CFT Exemption Requirements

ACLI recommends striking existing Section 5.H.(d). The requirement that the assuming entity never met criteria (a)-(c) since 1/1/2015 may scope in companies unintendedly. For example, if a new reinsurance entity is set up and initially only has one transaction, it would trigger the 25% threshold [criteria (b)] in year one. However, if in subsequent years, additional transactions are added that reduce the concentration of any one entity/group below that threshold, criteria (d) would still apply. Additionally, if a company were to sell an affiliated entity [criteria (a)], it is unclear why the prohibition on regulator exemption would still apply.

Best Efforts Approach

Section 5.F is not consistent with Section 6.I, which provides appropriate guidance for when information is not available. Further, the Appointed Actuary cannot demonstrate something is materially better than something they do not have the ability to determine, so Section 5.F creates an impossible standard. Accordingly, Section 5.F should be removed.

Scope

Responding to the note included in Section 2.A, ACLI supports modifying the scope in Section 2.A to align with the proposal from the Missouri Department of Insurance but without the 20% of premiums ceded threshold. Given that much of the focus related to this effort is focused on annuities of which many are single premium, this threshold could create unnecessary noise to determine which reinsurance transactions are in scope. Further, it may be difficult to assign the relevant premiums to individual reinsurance transactions to make this determination. These revised thresholds ensure that focus is appropriately placed on those transactions of most concern to regulators.

Appropriate Excess Capital

Section 6.B.iv.a.4 suggests that the Starting Asset Amount for the alternative run should consider the capital position of the reinsurer. Given that Asset Adequacy Testing does not ordinarily consider capital or scenarios that are beyond moderately adverse, ACLI does not think it is appropriate to require a consideration of capitalization for the Starting Asset Amount. With that said, we understand that this adjustment is intended to ensure the alternative run is reasonable and should be done on a best efforts basis.

In addition to the above items, there are several clean-up items that we wish to work with regulators to revise prior to adoption. We have noted these items in the redlined version of the Guideline submitted alongside our letter.

We appreciate the consideration of our recommendations, and we look forward to further discussion of the Guideline.

Sincerely,

CC: Scott O'Neal, NAIC