

REINSURANCE (E) TASK FORCE

Reinsurance (E) Task Force February 26, 2024, Minutes

Memorandum to the Reinsurance (E) Task Force from the Valuation Analysis (E) Working Group dated February 22, 2024, Regarding Notification of VAWG Referrals to SAPWG Related to Life Reinsurance; Memorandum to the Statutory Accounting Principles (E) Working Group from the Valuation of Analysis (E) Working Group dated December 18, 2023, Regarding Referral on Appendix A-791 Section 2.c. Q&A; and Memorandum to the Statutory Accounting Principles (E) Working Group from the Valuation Analysis (E) Working Group dated December 18, 2023, Regarding Referral on Reinsurance Risk Transfer and Reserve Credit (Attachment One)

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Draft: 3/5/24

Reinsurance (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2024 Spring National Meeting*)
February 26, 2024

The Reinsurance (E) Task Force met Feb. 26, 2024. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by John Rehagen (MO); Ricardo Lara, Vice Chair, represented by Monica Macaluso (CA); Mark Fowler represented by Todrick Burks (AL); Lori K. Wing-Heier represented by David Phifer (AK); Alan McClain represented by Leo Liu (AR); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Qing He (CT); Trinidad Navarro represented by Nicole Brittingham (DE); Michael Yaworsky represented by Jane Nelson (FL); John F. King represented by Bryce Rawson (GA); Doug Ommen represented by Kim Cross (IA); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); Timothy J. Temple represented by Stewert Guerin (LA); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott represented by Robert Wake (ME); Mike Chaney represented by Chad Bridges (MS); Grace Arnold represented by Fred Andersen (MN); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); D.J. Bettencourt represented by Doug Bartlett (NH); Justin Zimmerman represented by David Wolf (NJ); Scott Kipper (NV); Adrienne A. Harris represented by Robert Kasinow (NY); Judith L. French represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Andrew R. Stolfi represented by Brian Fjeldheim (OR); Michael Wise represented by Ryan Basnett (SC); Cassie Brown represented by Rachel Hemphill (TX); Jon Pike represented by Jake Garn (UT); Scott A. White represented by Doug Stolte and David Smith (VA); and Nathan Houdek represented by Mark McNabb (WI).

1. Adopted its 2023 Fall National Meeting Minutes

Crawford made a motion, seconded by Macaluso, to adopt the Task Force's Nov. 16, 2023, minutes (*see NAIC Proceedings—Fall 2023, Reinsurance (E) Task Force*). The motion passed unanimously.

2. Adopted the Report of the Reinsurance Financial Analysis (E) Working Group

Kaumann stated that the Working Group meets in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. He stated that the Working Group met Feb. 5, 2024, and Dec. 20, 2023, to approve several certified and reciprocal jurisdiction reinsurers for passporting.

Kaumann stated that the Working Group has now approved 77 reciprocal jurisdiction reinsurers and 41 certified reinsurers for passporting and that 43 states have passported a reciprocal jurisdiction reinsurer. He noted that the list of passported reinsurers can be found on the Certified and Reciprocal Jurisdiction Reinsurer web page.

Kaumann made a motion, seconded by Wolf, to adopt the report of the Reinsurance Financial Analysis (E) Working Group. The motion passed unanimously.

3. Received a Status Report on the Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group

Wake stated that the Working Group last met Nov. 1, 2023, in regulator-to-regulator session pursuant to paragraph 8 (international regulatory matters) of the NAIC Policy Statement on Open Meetings, where the Working Group reapproved the status of Bermuda, France, Germany, Ireland, Japan, Switzerland, and the United Kingdom (UK) as qualified jurisdictions and Bermuda, Japan, and Switzerland as reciprocal jurisdictions. He noted

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that Bermuda, Japan, and the UK are in the process of making changes to their regulatory systems and that NAIC staff are monitoring the implementation of these changes and will report any findings to the Working Group.

4. Discussed the Proposal to Require AAA to be Performed Using a Cashflow Testing Methodology for Life and Annuity Reinsurance Transactions

Rehagen stated that a project had been started in the Life Actuarial (A) Task Force that would require asset adequacy analysis (AAA) to be performed using a cash flow testing methodology for life and annuity reinsurance transactions. He stated that this project was proposed by several regulators and recommends changes to the asset adequacy testing methodology for the assets that support reinsurance transactions, specifically, the proposal recommended that AAA be performed using a cash flow testing methodology and performed at the line of business and treaty level, so within each individual treaty, AAA must be performed standalone for life insurance, annuities, and long duration health insurance.

Rehagen stated that this project was discussed publicly at the Feb. 8 and Feb. 15 meetings of the Life Actuarial (A) Task Force and noted that there was substantial discussion during those meetings. He stated that the intent of the meeting today is to give all interested groups an opportunity to provide input that can be used in this project.

Wolf provided additional background on this project and noted that there are several documents available on the Life Actuarial (A) Task Force web page and that the topic would be discussed further at the Spring National Meeting. He stated this project was proposed by several regulators and recommends that company-appointed actuaries use a cash flow testing methodology in their AAA for certain life and annuity reinsurance transactions. He stated that the proposal considers the significant increase in life and annuity reinsurance in recent years, which has been noted in other NAIC committees, working groups, and task forces and has been a topic in recent industry papers and forums.

Wolf stated that the recommendation focuses on business that heavily relies on asset returns, often referred to as asset intensive business, which includes, but is not limited to, variable universal life, individual annuities, and group annuities. When a cedent enters a reinsurance contract, there is risk that the transaction materially lowers the total asset requirement (the sum of reserves and required capital) in support of their asset-intensive business, and thereby facilitates significant releases of capital. This is also a primary driver for companies to pursue these transactions.

Wolf stated that while there are already standards in place for a ceding company to perform AAA supporting the gross liability, including reinsurance, an appointed actuary might not recognize an insufficiency in the total asset requirement. This can be due to various reasons, including simply relying on the creditworthiness of a reinsurer or not having sufficient information from the reinsurer. He noted that this effort is focused on establishing a safeguard involving reinsurance of asset intensive business by using a cash flow testing methodology to ensure there are enough assets to support future liabilities based on the U.S. statutory framework. He added that this safeguard requirement would be placed on the cedent, and while the reinsurer may need to provide additional information to the cedent, there is no additional financial requirement on the reinsurer because of this proposal.

Hemphill stated that this topic would be discussed by the Life Actuarial (A) Task Force at the Spring National Meeting and invited anybody who was interested in this topic to participate in their discussion.

5. Discussed Ongoing Projects at the NAIC That Affect Reinsurance

Jake Stultz (NAIC) stated that in 2023, the Macroprudential (E) Working Group had created a new reinsurance worksheet, which is an optional tool for state insurance regulators to get a better understanding of reinsurance transactions at the companies that they regulate. He noted that the worksheet allows for more consistent and

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thorough reviews of reinsurance, can be used for any type of reinsurance, is not intended to otherwise affect the Task Force's policies or procedures, and will not be required in the *Financial Analysis Handbook* or the *Financial Condition Examiners Handbook*. He said that the work completed using the reinsurance worksheet will remain confidential. He requested that if anybody who had used the worksheet had any comments on the overall form or function, please provide those to him so that they can be compiled and shared with the appropriate group at the NAIC.

Stultz stated that the Valuation Analysis (E) Working Group is currently completing its first year of reviews of *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53). He noted that AG 53 is broad and covers asset adequacy testing for life insurers, but he noted that the Task Force's primary focus in the process has been on the work involved with reinsurance, primarily focused on where this may affect the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement) or the "Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance" (UK Covered Agreement). He noted that a wide range of people are working on this project, including actuaries from the NAIC and regulators from several states, including actuaries, investment experts, and financial staff. Stultz said that other subject matter experts (SMEs) from the NAIC are brought in when needed and that the work being performed is regulator-only.

Stultz noted that the Valuation Analysis (E) Working Group had sent two referrals (Attachment One) to the Statutory Accounting Principles (E) Working Group at the 2023 Fall National Meeting. The first referral recommends that the Working Group remove a specific sentence from Appendix A-791, Section 2C, because it is unnecessary and is being misinterpreted, and that the second referral requests clarification on the evaluation of risk transfer on life reinsurance treaties. He stated that these referrals will be addressed by the Statutory Accounting Principles (E) Working Group over the next several months.

Stultz stated that in 2023 there was an issue with Vesttoo, a reinsurance broker, where fraudulent letters of credit had been used for collateral purposes. He noted that several groups at the NAIC had discussed the issue and are continuing to monitor the situation, and that the NAIC's current understanding is that all the letters of credit have been replaced, and there have been several legal settlements between Vesttoo and the impacted companies.

Stultz noted that there were several bank failures in early 2023, which impacted reinsurance since some of these banks were approved on the List of Qualified U.S. Financial Institutions (QUSFI List). He stated that the *Credit for Reinsurance Model Law (#785)* allows a letter of credit to be used as collateral under Section 3, if the issuing bank meets the criteria of Section 4, which details the process for a bank to be reviewed and approved to be added to the QUSFI List. He stated that a drafting note in Model #785 also clarifies what needs to be done in situations when a financial institution loses its status as a QUSFI. As a result of the bank failures, the Valuation of Securities (E) Task Force adopted a minor revision to the *Purposes and Procedures Manual* (P&P Manual) that streamlines the process of removing troubled financial institutions from the QUSFI List. He stated that he is not aware of any issues with any banks at this time, but that NAIC staff will continue to monitor any news about any banks on the QUSFI List.

Having no further business, the Reinsurance (E) Task Force adjourned.

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MEMORANDUM

TO: John Rehagen, Acting Chair of the Reinsurance (E) Task Force
Monica Macaluso, Acting Vice Chair of the Reinsurance (E) Task Force

FROM: Fred Andersen, Chair of the Valuation Analysis (E) Working Group
Rachel Hemphill, Vice-Chair of the Valuation Analysis (E) Working Group

DATE: February 12, 2024

RE: Notification of VAWG Referrals to SAPWG related to Life Reinsurance

The purpose of this memo is to notify the Reinsurance (E) Task Force (RTF) that the Valuation Analysis (E) Working Group (VAWG) has sent the Statutory Accounting Principles (E) Working Group (SAPWG) two referrals related to life reinsurance.

- a. Referral on Appendix A-791 Section 2.c Q&A – This referral recommends that SAPWG remove the first sentence from the answer to A-791 Section 2, paragraph c’s Q&A because it is unnecessary and is being misinterpreted.
- b. Referral on Reinsurance Risk Transfer and Reserve Credit – This item requests clarification on the evaluation of risk transfer on life reinsurance treaties.

SAPWG received the referrals during their meeting on Jan. 10. NAIC staff was directed to develop agenda items for discussion at future SAPWG meetings.

The intent of this memo is to notify the RTF of the referrals and to bring awareness that related discussions will be held at future SAPWG meetings to allow the Task Force the opportunity to monitor and provide input to the discussions.

Please contact NAIC staff Jennifer Frasier (jfrasier@naic.org), Jake Stultz (jstultz@naic.org), or Robin Marcotte (rmarcotte@naic.org) with questions.

Cc: Jennifer Frasier, Jake Stultz, Dan Schelp, Robin Marcotte

MEMORANDUM

TO: Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group
Kevin Clark, Vice Chair of the Statutory Accounting Principles (E) Working Group

FROM: Fred Andersen, Chair of the Valuation Analysis (E) Working Group
Rachel Hemphill, Vice Chair of the Valuation Analysis (E) Working Group

DATE: December 18, 2023

RE: Referral on Appendix A-791 Section 2.c Q&A

The purpose of this referral is to ask the Statutory Accounting Principles (E) Working Group (SAPWG) to consider making a clarifying edit to *A-791, Life and Health Reinsurance Agreements*, Section 2.c Q&A.

The Valuation Analysis (E) Working Group (VAWG) recommends that SAPWG remove the first sentence from the answer to A-791 Section 2, paragraph c's Q&A (shown as underlined and bolded text below):

Q – If group term life business is reinsured under a YRT reinsurance agreement (which includes risk-limiting features such as with an experience refund provision which offsets refunds against current and/or prior years' losses (i.e., a "loss carryforward" provision), under what circumstances would any provisions of the reinsurance agreement be considered "unreasonable provisions which allow the reinsurer to reduce its risk under the agreement" thereby violating subsection 2.c.?

A – Unlike individual life insurance where reserves held by the ceding insurer reflect a statutorily prescribed valuation premium above which reinsurance premium rates would be considered unreasonable, group term life has no such guide. So long as the reinsurer cannot charge premiums in excess of the premium received by the ceding insurer under the provisions of the YRT reinsurance agreement, such provisions would not be considered unreasonable. Any provision in the YRT reinsurance agreement which allows the reinsurer to charge reinsurance premiums in excess of the proportionate premium received by the ceding insurer would be considered unreasonable. The revisions to this QA regarding group term life yearly renewable term agreements is effective for contracts in effect as of January 1, 2021.

First, this sentence is unnecessary, as it is an aside in a discussion about group term life. More importantly, this statement is being misinterpreted as supporting the use of Commissioner's Standard Ordinary (CSO) rates as a "safe harbor," at or below which YRT rates would be automatically considered not to be excessive.

The 791 section 2c QA guidance does not provide a safe harbor based on CSO. It indicates that if the YRT reinsurance premium is higher than the proportionate underlying direct premium for the risk reinsured, then the reinsurance premium is excessive. VAWG observes that the prudent mortality under the *Valuation Manual*, Section 20: Requirements for Principle-Based Reserves for Life Products (VM-20), may appropriately be either higher or lower than the CSO rate depending on the facts and circumstances.

Cc: Jennifer Frasier, Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden

MEMORANDUM

TO: Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group
Kevin Clark, Vice Chair of the Statutory Accounting Principles (E) Working Group (SAPWG)

FROM: Fred Andersen, Chair of the Valuation Analysis (E) Working Group
Rachel Hemphill, Vice Chair of the Valuation Analysis (E) Working Group (VAWG)

DATE: December 18, 2023

RE: Referral on Reinsurance Risk Transfer and Reserve Credit

VAWG has identified that issues arise when evaluating reinsurance for risk transfer in accordance with *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance*, when treaties involve more than one type of reinsurance, and there is interdependence of the types of reinsurance, including but not limited to an experience refund that is based on the aggregate experience. In such cases, VAWG regulators find that these types of reinsurance must be evaluated together and cannot be evaluated separately for the purpose of risk transfer. For example, where a treaty includes coinsurance and YRT with an aggregate experience refund and the inability to independently recapture the separate types of reinsurance, it is not adequate to separately review the coinsurance and YRT pieces of the transaction for risk transfer. The treaty as a whole is non-proportional. This complexity is not immediately apparent to the regulatory reviewer, and it is important that this issue be raised broadly, so that individual state regulators are aware. Individual regulators are encouraged to contact VAWG if they would like additional perspective when reviewing such treaties.

Generally, VAWG regulators observe that some companies are reporting an overstated reserve credit due to a bifurcated risk transfer analysis. Specifically, some companies reported a proportional reserve credit for a coinsurance component, despite in aggregate the reinsurer only being exposed to loss in tail scenarios. From an actuarial perspective, there is consensus among VAWG members that it is not appropriate for a ceding company to take a proportional reserve credit that reflects the transfer of all actuarial risks when not all actuarial risks are transferred.

VAWG recommends that SAPWG discuss this issue, to 1) increase familiarity with the issue and 2) consider whether any clarifications to risk transfer requirements is appropriate.

Cc: Jennifer Frasier, Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden

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