In August the National Association of Insurance Commissioners’ (NAIC) Life Actuarial Task Force (LATF) released a statement related to reserving for universal life using multiple secondary guarantees. This is in response to some commissioners’ growing concerns that reserves for certain universal life products were not appropriately calculated. The statement concludes that AG38 as written is sufficient, writing, “When a policy contains more than one secondary guarantee, Model 830 [The Valuation of Life Insurance Policies Model Regulation] requires reserves to be calculated using the secondary guarantee that produces the greatest reserves ignoring all other secondary guarantees.”

The American Council of Life Insurers (ACLI) responded to the statement, raising several concerns. First, the LATF uses language or terms not contained in AG38 to achieve a desired outcome. The ACLI also contends that, even though specific carriers are not named in the statement, some carriers could suffer from the implication of holding inadequate reserves. Lastly, the ACLI states that these concerns point to the need for a more rapid approach to principles-based reserving and recommends interim measures.

As the ACLI maintains, the scope of this statement is quite vague. The timing of the statement, coming after some regulatory concerns about proper reserving for term-UL products, suggests these products are the target. However, the reserving implications for companies offering this type of product is uncertain. In some instances it is reasonable to expect that, if accepted, stricter adherence will require carriers to retain higher reserves for such products. But effective date – prospective or retrospective – is unclear.

Calling for a more rapid pace towards a principles-based approach is worthwhile, but if past regulatory efforts are any indication, the industry is still far from meeting that goal. While interim rules may be reasonable, perhaps the strongest argument in the NAIC’s favor is contained in the Introduction of AG38:

> Obviously, new policy designs will emerge subsequent to the development of this document. No statute, regulation, or guideline can anticipate every future product design, and common sense and professional responsibility are needed to assure compliance with both the letter and the spirit of the law. While the Model is a complex regulation, its intent is clear: reserves need to be established for the guarantees of a policy. Policy designs that are created to simply disguise those guarantees or exploit a perceived loophole must be reserved in a manner similar to more typical designs with similar guarantees.

Certainly, regulators had opportunity to assess the product design and proposed reserve requirements as companies filed term-UL policies for approval. That these products were approved in all jurisdictions in which they were filed appears to give tacit approval to the reserving approach used. Needless to say, this will be a complex issue to resolve.

We will continue to monitor the development of this issue and consult with our clients on developing approaches to adequately support product innovation.