

# Spring Sprouts a Renewed Review by the NAIC

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During and after the 2013 NAIC Fall National Meeting, various NAIC groups renewed their review of the regulatory framework for annuities. This review stems from the growing importance of annuities to address longevity risk. In its *Study of the State of the Life Insurance Industry: Implications of Industry Trends*, the NAIC's Center for Insurance Policy and Research acknowledged that insurers' longevity underwriting experience makes them a natural fit to fill the growing demand for longevity protection. It also recognized the desirability of including annuities within defined contribution plans, as well as the emergence of innovative products such as contingent deferred annuities (CDAs), to provide consumers with lifetime income protection. However, it noted the need to review and modify the current regulatory framework to address these products. Several NAIC groups are doing just that. For CDAs, the CDA (A) Working Group (CDA WG) is coordinating and establishing the growing cycle for the NAIC groups addressing CDAs. These groups are considering the applicability of existing regulations to reserving, solvency, regulatory authority and consumer protections to CDAs. In addition, at the Fall Meeting, the CDA WG created a plan and timeline to develop a guide for states interested in clarifying the applicability of their annuity laws to CDAs. This included a plan to gather additional consumer-related information regarding CDAs at the Spring National Meeting, and to draft the guidance by the Summer National Meeting. At its Fall Meeting, the Life Actuarial (A) Task Force (LATF) received information about Actuarial Guideline 33 (AG 33), which sets forth the reserve required for fixed index annuities with guaranteed lifetime withdrawal benefits. The American Academy of Actuaries (AAA) presented its report on AG 33 and its recommended changes. LATF plans to review the AAA report and examples. In December 2013, the budding Indexed-Linked Variable Annuity (A) Subgroup reviewed index-linked annuity products. These products provide a return based on the change in an index, including a portion of the negative change, and are funded by a separate account. It then issued a January 15, 2014 Discussion Points for Separate Account Index-Linked Products, outlining concerns that the current annuity regulatory framework does not address these products. It planted the following seeds for consideration: (i) whether these products should be subject to nonforfeiture standards; (ii) whether consumers understand interim values; (iii) whether these products would be subject to guaranty fund coverage; (iv) what reserves should be established; (v) what valuation applies to the separate account; (vi) what RBC applies; and (vii) whether there are other financial reporting issues. The Indexed-Linked Subgroup asked the

insurance industry for its current practices on these issues, and for its views on how the regulatory framework for annuities would need to be modified. To facilitate the use of annuities within defined contribution plans, the ERISA Retirement Income (A) Working Group (ERISA WG) has been working on an ERISA Plan Fiduciary Best Practices Document. At the Fall National Meeting, the industry offered to provide the questions being asked by ERISA plan fiduciaries. The ERISA WG could consider these in revising the document to provide more meaningful guidance on the selection of immediate and deferred annuities for plans. In the meantime, the ERISA WG plans to continue its Department of Labor discussions on fiduciary duty safe harbor for selecting an annuity provider.

## Authored By



Ann Young Black

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