ACLI
Financial Security...for Life.

December 29, 2017

Commissioner David Altmaier
Florida Office of Insurance Regulation
Chair, Group Capital Calculation Working Group
Via email to: jgarber@naic.org; ddaveline@naic.org

Re: Oct. 31, 2017 Memo on "Proposed Revised Approach XXX/AXXX Captives

Dear Commissioner Altmaier,

The American Council of Life Insurers (ACLI)[1] appreciates the opportunity to provide feedback on the October 31, 2017 memo, "Proposed Revised Approach to XXX/AXXX Captives" in the group capital calculation. We appreciate your willingness to consider a compromise position to bridge strong differences of opinion within the working group. However, after careful review of the revised proposal ACLI cannot support the proposal as it's currently written, for reasons outlined below. We strongly believe that the group capital calculation should align with the Regulation XXX/AXXX Framework for Captive Reinsurers, which creates a robust regulatory framework for policyholder protection that includes enhanced disclosure, collateral, RBC, and financial examination requirements. The Framework was painstakingly established and implemented over a period of four years, and we believe any attempt to circumvent it is misguided and leads to misleading results.

The XXX/AXXX Framework already addresses concerns about collateral maintained for the ceded reserves

The October 31 memo notes that some regulators oppose any approach that allows the use of "any types of assets that are not allowed for statutory accounting principles (SAP), even if that issue is only a perception issue."

The XXX/AXXX Framework was designed to address concerns about the types of collateral maintained for the reserves ceded by the direct writer and we believe the Framework adequately addresses these concerns by setting a uniform benchmark for "economic reserves" that is equal to the PBR reserves prescribed in the NAIC Valuation Manual. The new benchmark is the "Required Level of Primary Security" and a ceding company must maintain "hard asset collateral" that is at least as high as the "Required Level of Primary Security" – which is equal to the PBR reserves prescribed in the NAIC Valuation Manual. The remainder of the collateral is known as "Other Security" and must be composed of assets that are approved by the state commissioner. These requirements have been adopted in Actuarial Guideline 48 and are incorporated in Model Regulation #787.

[1] The American Council of Life Insurers is a Washington, D.C.-based trade association with approximately 290member companies operating in the United States and abroad. ACLI advocates in federal, state and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 95 percent of the U.S. industry assets and premiums.

The XXX/AXXX treatment of grandfathered captives should not be unwound by the NAIC group capital calculation

The regulators who drafted the XXX/AXXX Framework spent a large amount of time considering the appropriate treatment of captives established before the Framework's 1/1/2015 implementation date and ultimately concluded that those existing policies should be grandfathered. There was a general recognition that it was impossible to "unwind" business decisions made in the past and in conformity with the existing regulatory framework. The grandfathered policies were priced, and capital was deployed based on the laws and regulations that existed when the policies were written.

More practically, because a significant number of grandfathered policies are 20-year term insurance policies, there was also recognition that the block of grandfathered policies shrinks significantly every year, and within a few years the "grandfathered" issue would resolve itself as the last of the policies mature. Simply put, in a few years, there will be a significant decline in the number of grandfathered policies, which should assuage concerns about uniformity.

In the meantime, regulators are not without insight into grandfathered or non-grandfathered XXX/AXXX captives. Regulators created the Supplemental Term and Universal Life Reinsurance Exhibit that shows the relationship between statutory reserves ceded and the "hard" assets being held for each captive reinsurance treaty. The exhibits show the "economic reserve" for grandfathered policies and the Required Level of Primary Security for non-grandfathered policies. Additionally, and maybe most importantly, there is a requirement in each individual entity's confidential RBC Report to disclose an RBC calculation that shows the impact of unwinding the financial effects of the captive reinsurance. Note, however, that such information is confidential, since the context in which such an alternative calculation is viewed is very important.

Conclusion

ACLI feels strongly that the group capital calculation should not circumvent or erode the existing Regulation XXX/AXXX Framework for Captive Reinsurers. The group capital calculation, and any adjustments, should align with the Regulation XXX/AXXX Framework for Captive Reinsurers. We think this issue is critical to maintain the integrity of the group-capital calculation. As always, we welcome any follow-up or discussion of our views. Please feel free to contact us directly if you have any questions or concerns, or would like to discuss our remarks in more depth.

Yours very sincerely,

Carolyn Cobb
Vice President & Chief Counsel, Reinsurance & International Policy
carolyncobb@acli.com; *(202) 624-2340*

Paul Graham
Senior Vice President, Insurance Regulation & Chief Actuary
paulgraham@acli.com; *202-624-2164*

David Leifer
Vice President & Associate General Counsel
davidleifer@acli.com; *(202) 624-2128*

Mariana Gomez-Vock

Senior Counsel
marianagomez-vock@acli.com*; (202) 624-2313*