

Financial Condition (E) Committee Efforts Regarding Separate Accounts - Update

The following document summarizes the various charges and activities to date that the Financial Condition (E) Committee has delegated with respect to Separate Accounts.

<u>Relevant Committee, Task Force and/or Working Group and Related Activity</u>	<u>Status</u>
<p><u>Separate Account Subgroup of the Statutory Accounting Principles Working Group</u></p> <p>The Separate Account Subgroup was formed during the 2007 Winter National Meeting to consider <i>SOP 03-1, Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for Separate Accounts</i> (SOP 03-1). The initial charges assigned to this Subgroup were to: 1) review and consider SOP 03-1 to potentially revise/supersede <i>SSAP No. 56—Separate Accounts</i> (SSAP No. 56), and 2) consider whether disclosures or restrictions should be established to prevent separate account transactions that establish preferred classes of policyholders.</p> <p>In studying those issues, the Subgroup elected not to establish statutory accounting parameters similar to SOP 03-1 due to concerns that such parameters would contradict state authority, as the classification of an insurer’s products is determined by enacted model laws and/or guidelines of the domiciliary state. Instead, the Subgroup recommended E-Committee take action to establish or revise model laws, or other regulatory guidance, to ensure that appropriate risk charges for individual separate account products are required in order to compensate the general account for risks taken through the guarantee of separate account products. The Subgroup is concerned that the lack of risk charges, combined with the current market environment, may be significantly increasing the solvency risk for insurers.</p> <p>The Subgroup was disbanded on June 13, 2009, after actions were taken by the Statutory Accounting Principles Working Group to create disclosures to assist regulators in understanding each reporting entity’s separate account programs, the products captured within the separate account annual statement, as well as any potential impact the separate account program could have on the general account. The corresponding blanks changes were adopted by the Blanks Working Group during 2010 effective for year-end 2010.</p>	Completed
<p><u>Separate Account Risk (E) Working Group (Formerly S/A Risk Charge Working Group)</u></p> <p>The Working Group was created by E-Committee on September 24, 2009 with 2010 charges, after a recommendation was received for the formation of the group from the Statutory Accounting Principles Working Group. On March 8, 2011, the Working Group’s name was changed and it was charged with studying the need to modify existing or develop new regulatory guidance related to separate accounts where, in recent years, various products and contract benefits have increased the risk to the general account. At the conclusion of such study, it is intended that the group provide a recommendation to the E-Committee, including a request for model law development/change, if the recommendation is for the NAIC to devote its resources to such an effort. The group has been assigned an additional charge, which is discussed further below.</p>	In Progress
<p><u>Financial Analysis Working Group (FAWG)</u></p> <p>The Financial Analysis Working Group (FAWG) monitors nationally significant insurers/groups which may be trending toward or be financially troubled, as well as industry trends. During the 2009 Annual review of life insurers, the FAWG identified a few unique considerations with respect to separate account activities that warranted additional analysis and study, such as material increases in non-variable and non-unit linked activity (e.g., BOLI and COLI). The study was finalized in 2011 and illustrated the following:</p>	In Progress

<ul style="list-style-type: none"> • 300 products were identified as non-variable products of which 81 were noted not to be legally insulated; • There was a lack of uniformity in the definition and/or understanding of the term insulated as well as agreement as to which products should be allowed to be deemed as insulated; • States did not appear to have clear mechanism to ensure non-insulated products with separate accounts were in compliance with state investment statutes. <p>Based on the Working Group’s report discussed on March 8, 2011, a motion was approved by E-Committee to send referral letters to the Financial Analysis Handbook (E) Working Group, Capital Adequacy (E) Task Force and Life Actuarial (A) Task Force to research and address areas of risk related to separate accounts. The next four sections of this document summarize the various charges and activities to date with respect to these specific referrals.</p> <p>FAWG continues to monitor for any strains on general accounts from guarantees from separate account products influenced by the low interest rate environment, as well as other anomalies related to separate accounts. For example, the identification of 15 insurers that paid guarantees in 2010, but reported no risk charge paid to the general account.</p>	
<p><u>Receivership & Insolvency Task Force and Receivership Separate Accounts (E) Working Group</u></p> <p>The Task Force was approached by the Separate Account Risk Charge Working Group during early 2010 with a referral. The Task Force expanded the project for risks not considered by the referral, and created a Working Group to study receivership issues related to separate accounts and report on possible solutions.</p>	In Progress
<p><u>Capital Adequacy (E) Task Force</u></p> <p>The Task Force was asked to study the need to modify the risk-based capital formula to capture risks that might not be captured within the reserve risk charge. Most notably, it is unclear if the existing risk-based capital formula adequately addresses the risk that is inherent in these non-unitized products. The inclusion of non-unitized products within the separate account may pose different types of risks, including but not limited to greater investment risk exposure to the general account because such requirements may not be subject to the state investment laws.</p> <p>In addition, as the amount of such products increases in relation to other products, so too may the risk to the general account in general. The same could be said of any type of separate account product that has the potential to place greater risk on the general account than do other general account products. As separate account products have increased in size and complexity in relation to general account product size, it may be appropriate to establish a capital charge for an insurer that has more exposure to these types of risks when compared to the general account.</p>	In Progress
<p><u>Financial Analysis Handbook Working Group</u></p> <p>The Working Group was requested to provide enhancements to the Level Two guidance and procedures within the 2010 Life/A&H edition of the Handbook to cover analysis considerations of the new reporting requirement in the separate account general interrogatories. On October 26, 2011 the Working Group adopted additional Level Two guidance and procedures for separate accounts including expansion of topics such as non-variable products, guarantees, insulated/non-insulated status, state investment laws, etc. that will be included in the 2011 Life/A&H edition of the Handbook.</p>	Completed

<p><u>Life Actuarial (A) Task Force</u></p> <p>The Task Force was asked to assist E-Committee and its relevant task forces/working groups in understanding the features as well as legal and actuarial requirements of non-unit linked products within separate accounts. Additionally, there may be implications for consumers related to possible avoidance of non-forfeiture requirements that may need to be further investigated by the Task Force. LATF provided a response to their recent research efforts in October 2011 for review.</p>	<p>Pending Feedback on Non-forfeiture</p>
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<u>New Requests for Relevant Committee, Task Force and/or Working Group</u>	<u>Status</u>
<p><u>Financial Condition Examiners Technical Group</u></p> <p>The Technical Group is being requested to consider the current examination processes and procedures related to separate accounts products/assets to ensure that adequate consideration is given to potential risks arising from these accounts. Additionally, consider the recent changes in the <i>NAIC Financial Analysis Handbook</i> and how to leverage the analyst's work to identify areas for examination activities.</p>	<p>Requested</p>
<p><u>Receivership Separate Account Working Group</u></p> <p>The Working Group is requested to Consider reporting needs for the current separate accounts mix of products and assets due to considerations with respect to insulated and non-insulated products/assets.</p>	<p>Requested</p>
<p><u>Separate Account Risk Working Group</u></p> <p>The Working Group is requested to compare the U.S. generally accepted accounting principles (GAAP) definition and requirements for separate accounts to statutory accounting requirements, and use the results of this analysis to help discuss what should be allowed as insulated products.</p>	<p>Requested</p>