



STATE OF NEW YORK
INSURANCE DEPARTMENT
ONE COMMERCE PLAZA
ALBANY, NEW YORK 12257

David A. Paterson
Governor

James J. Wrynn
Superintendent

November 2, 2009

Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

These considerations apply to all life insurance companies and fraternal benefit societies doing business in New York and all insurers holding a certificate from the superintendent as being accredited for the reinsurance of life insurance, annuities, or accident and health insurance.

This letter focuses on particular issues relating to actuarial opinions and memorandums and other solvency issues. These considerations are meant (i) to provide instructions on filing, (ii) to describe additional tests and documentation standards that the Department wants to see, and (iii) to provide companies with insight as to how the Department views adequacy in preparation for discussions that may occur subsequent to filing the opinion. These considerations have been applied on previous examinations and have sometimes led to the requirement of additional reserves as deemed appropriate in light of company-specific circumstances.

Actuarial Opinion and Memorandum – Filing Instructions

The 12/31/09 actuarial opinion and memorandum should be submitted via CD or other electronic means. Email submissions should be sent to the [Albany Life Bureau](#). Multiple electronic files are acceptable as long as an index and description of these files is included. To reduce the need for follow-up correspondence, a complete summary of applicable actuarial opinions and certifications must be received via Email by the March 1st filing deadline. See [AOM and RBC Checklist](#). Life RBC C3 Phase I and Phase II analyses must be forwarded by June 15, 2010, along with the appointed actuary's certification and documentation consistent with Section 3.6 of ASOP 41 relating to Actuarial Communications. The documentation of Life RBC C3 Phase I and Phase II analyses should be at least as thorough as that provided in the Actuarial Memorandum per Section 95.9 of Regulation 126. The Life RBC C3 Phase I and Phase II documentation shall be submitted on a fully stand-alone basis, i.e., without cross references to each other.

Filing extensions for the Regulation 126 actuarial memorandum will be granted on a case-by-case basis. In any event, all substantive asset adequacy analysis must be completed prior to rendering the actuarial opinion submitted with the annual statement, i.e., prior to the March 1st filing deadline. If an extension is granted, the actuarial opinion must still be submitted by March 1st, accompanied by a brief summary of the results of the asset adequacy analysis, with the actuarial memorandum due by the extension date. The summary of results shall contain the numerical NY 7 results for each scenario for each line of business, as well as an explanation as to how these results were considered in forming the opinion. This summary should pay particular attention to material changes in assumptions or methodology versus the previous submission. If a material line of business was not subjected to cash flow testing, then the actual type of analysis, numerical results, and conclusions will need to be explained.

VACARVM certifications are due March 1, 2010, as applicable. Filing extensions for the related memorandum will be granted in similar fashion to the Regulation 126 memorandum.

For all foreign insurers and fraternal benefit societies, the table of liabilities in the Regulation 126 actuarial opinion must be clearly reconcilable to the New York supplement.

**New York State Insurance Department's
Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues**

Actuarial Opinions per § 95.7 and § 95.8 of Regulation 126

Except as provided by the language recommended in Sections 95.7 or 95.8 of Regulation 126, the actuarial opinion should avoid using wording such as “to the best of my knowledge” or “to the extent practicable” unless such wording is specifically intended to qualify the opinion. The actuarial opinion must not rely on actuarial opinions from other actuaries. Other actuarial opinions may not be attached to the actuarial opinion or included in the actuarial memorandum. Reliance on the “work product” of other actuaries continues to be permitted and will be considered “reliance on the analysis of other experts” which is addressed per §95.8(f). Accordingly, if the appointed actuary relies on the analysis of other actuaries, the appropriate reliance statements should be attached to the actuarial opinion.

If an actuarial opinion or certification is qualified, it must be clearly identified as such. In such cases, the impact must be quantified in the opinion or certification.

If an actuarial memorandum or report includes “Deviation from Standard” wording regarding conformity with the applicable actuarial standard(s) of practice, that fact must be disclosed directly in the related opinion or certification.

Actuarial Memorandum per § 95.9 – Separate Section for Special Considerations

The actuarial memorandum per §95.9 of Regulation 126 should include a separate section that specifically addresses each of the fourteen items enumerated below. References can be made to other sections of the actuarial memorandum as appropriate; however, the separate section should contain all specially requested data, test results, and related explanations.

(1) Description of Assumptions per § 95.9(b)(1)(vi)

The actuarial memorandum should include appropriate validation of key assumptions to recent actual experience and include justification whenever assumptions used in the asset adequacy analysis are materially different from recent actual experience, particularly when such differences produce more favorable testing results. In any event, the appointed actuary should ensure that the "moderately adverse conditions" testing requirement has been satisfied.

A description of all substantive assumptions should be provided regardless of the type of asset adequacy analysis, i.e., for gross premium valuation, loss ratio analysis, cash flow testing, etc.

In general, the testing period used for asset adequacy analysis should extend far enough into the future to cover the major portion of the future run out of the liability cash flows, i.e., until an immaterial amount of business remains. If a shorter testing period is used (e.g., the ten year horizon required for individual single premium deferred annuities) then sensitivity tests over longer horizons should be conducted to determine the impact of long-term guarantees (e.g., substantive minimum interest rate guarantees in the decreasing interest rate scenarios).

Notwithstanding premium payment histories, for contracts with flexible premiums (e.g., individual flexible premium deferred annuities), appropriate sensitivity tests should be performed assuming additional contributions in the decreasing interest rate scenarios, in order to assess the potential intermediation risk due to minimum interest rate guarantees.

With respect to §95.9(b)(1)(vi)(a) lapse rates, the actuarial memorandum should clearly identify any blocks of business where testing results are materially lapse supported, explain the rationale for such lapse assumptions and comment on the sensitivity of results if actual lapse rates prove lower than those assumed.

Where a lapse-related formula is used within the actuarial memorandum, a chart should accompany the formula specifying the assumed rate for specific cases. Where rates are to be specified for “each duration”, grouping of durations can be performed where rates are very similar within a range of durations. Here are examples of cases where this demonstration is expected:

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

- For universal life with secondary guarantee business that is reserved using the 9-step methodology stated in §98.9(c)(2)(viii) of Regulation 147, provide the assumed lapse percentage for the case of a level premium payment pattern, level interest rate scenario, for each duration.
- For deferred annuity dynamic lapses, provide the assumed lapse percentage for combinations of credited/competitor rate differences and each duration.
- For variable annuity with guarantee business, provide the assumed lapse percentage for combinations of moneyness and each duration.
- For long-term care, provide the lapse assumption for each duration.

With respect to §95.9(b)(1)(vi)(b) interest crediting rate methodology, the actuarial memorandum should describe actual versus modeling spreads. Where the assumed crediting strategy materially deviates from current company practices, (e.g., modeling spreads not currently being achieved), the impact of continuing current practices should be quantified.

For asset adequacy analysis, maintenance expenses must be validated using a top-down approach, by considering overall company expenses and backing out acquisition costs and other costs clearly not necessary to maintain the inforce business. Toward this end, excluded costs must be clearly justified in light of actual sales production for companies with established marketing platforms. For companies incurring material startup expenses, any excluded startup costs must be clearly justified in light of the expected volume and profitability of new business resulting from such expenditures.

(2) Asset Assumptions per § 95.9(b)(2)

Reinvestment and disinvestment assumptions should be consistent with actual company practice.

If reinvestment or disinvestment assumptions differ from current or recent past company practice, the actuarial memorandum should explain and justify.

Asset adequacy analysis should include a special sensitivity test assuming a conservative return on investment for general account assets having substantial volatility of returns (e.g., common stock, real estate, hybrids with significant common stock characteristics, foreign currency risks, Schedule BA assets, etc.). To calculate this conservative return, the asset should be assumed to experience an immediate 20% drop in value, followed by a 5% return at the end of the first projection year and at the end of each projection year thereafter. The memorandum should clarify which assets were subjected to this test and which were not, and provide the annual statement carrying value for each major asset category. This test must be performed if assets with substantial volatility of returns are supporting general account liabilities. To reduce the amount of additional work this test need only be performed for the Level interest rate scenario. If the appointed actuary believes this test could produce materially disproportionate impacts on the other NY7 scenarios, then those scenarios should be tested as well.

Asset adequacy analysis for variable annuities (including that for any guaranteed living benefits, guaranteed minimum death benefits, and/or recoverability testing of CARVM allowance) should include a special sensitivity test assuming the conservative return described above (before deduction of M&E charges) on equity funds and other funds with substantial volatility of returns. A consistent adjustment should be made to expected returns for fixed income funds having equity or other volatile return component (e.g., balanced funds). If projected gains on variable annuities are used to offset projected losses on other business, this test must be performed for variable annuity projections in conjunction with the NY7 cash flow projections for such other business.

Some companies selling variable life or variable annuity products may have made revenue sharing arrangements with an entity responsible for providing investment or other types of services that makes payments to the company (or to one of its affiliates). Such payments are typically in exchange for administrative services provided by the company (or its affiliate), such as marketing, distribution and recordkeeping. When income attributable to revenue sharing is included in the asset adequacy analysis, the revenue sharing arrangements should be fully explained and justified. In addition, a sensitivity test should be performed to quantify the impact on results excluding any revenue sharing income that is not contractually guaranteed to the insurer and any successor.

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

Please indicate whether or not the Company participated in the **Term Asset-Backed Securities Loan Facility (TALF)** program as of 12/31/2009. If yes, please provide a detailed discussion of how the Company's participation in this program was reflected in the 12/31/2009 asset adequacy analysis and Life RBC C3 Phase I cash flow testing.

(3) Presentation of Results

The results from asset adequacy analysis should be shown separately by major product categories within a line of business (e.g., allocated vs. unallocated, etc. for group annuities, SPDA vs. FPDA vs. payout annuities, etc. for individual annuities, Term vs. UL vs. SPWL vs. Whole Life, etc. for life insurance). For this purpose, "major" product categories can be interpreted to mean categories where the asset adequacy results are material relative to results shown for the combined products. Professional judgement can be used to decide appropriate delineation but the rationale should be explained and justified (e.g., Term combined with UL because Term is immaterial).

For each of the NY7 interest rate scenarios, the present value of the ending "market value" surplus should be shown. Such present values should be consistent with the interest rate path for each scenario, with totals provided for each major product category and each major line of business (i.e., Life, Health, Annuity). Per Section 95.10(i), ending "market value" amounts should also be shown. For aggregation purposes, the common reference date shall be the valuation date, as required per Section 95.10(a)(2).

For business that is subject to Regulation 56, standalone asset adequacy analysis must be performed for at least each major product category, e.g., Long Term Disability (LTD) vs. Long Term Care (LTC).

For each major product category, the documentation should be clearly articulated so that the reviewer can readily understand which assets support which liabilities, how positive net cash flows are reinvested, and how any negative cash flows are handled in asset adequacy analysis and Life RBC Phase 1 analysis.

(4) Clarification of Interest Rate Scenarios per § 95.10(d)

The yield curve for the baseline NY7 scenarios should not be normalized; however, additional scenarios may be provided at the discretion of the appointed actuary, e.g., normalized NY7, inverted yield curve, etc.

Pop-up and pop-down scenarios should occur immediately, not at the end of the first year.

(5) Floor rates on Decreasing Interest Rate Scenarios per § 95.10(d)

For purposes of determining the floor rates on the decreasing scenarios, parallel shifts or proportionate shifts may be used, but a consistent set of scenarios must be employed across all lines of business, i.e., do not use parallel shifts for one type of business and proportionate shifts for another.

For decreasing scenarios, the full amount of the prescribed change should occur each year until the floor rate is reached, regardless of whether parallel or proportionate shifts are being used.

For parallel shifts: Floor rates should equal the beginning rate less one half the 5-year Treasury rate. Floor rates should not be less than zero.

Example:

If the 5-year initial Treasury rate = 2.86%, 3-month initial Treasury rate = 1.24% and 10-year initial Treasury rate = 3.97%, then the 3-month floor rate would be 0% since $1.24\% - 1.43\% = <.19\%>$, while the 10-year floor rate would be $2.54\% = 3.97\% - 1.43\%$.

For proportionate shifts: Floor rates for the 5-year Treasury rate should equal one half the 5-year Treasury rate. Floor rates for other points on the yield curve should be one half the initial rate for that point on the yield curve.

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

Example:

If the 5-year initial Treasury rate = 2.86%, 3-month initial Treasury rate = 1.24% and 10-year initial Treasury rate = 3.97%, then the 5 year floor rate would be 1.43% = $.5 \times 2.86\%$, the 3-month floor rate would be $.62\% = .5 \times 1.24\%$, while the 10-year floor rate would be $1.99\% = .5 \times 3.97\%$.

(6) Calls and Prepayments per § 95.10(f)

Examples cited by regulation may no longer be appropriate as safe harbors.

Assumptions should be commensurate with the underlying economics. To the extent simplified assumptions are used in the asset adequacy analysis, this should be justified based on materiality and conservatism in the projected results.

For each major line of business, supporting assets subject to calls and prepayments should be identified, with an explanation and justification of all call and prepayment assumptions.

For all mortgage-backed securities, the explanation of the prepayment assumption should identify all variables (e.g., collateral type, aging, coupon differential, etc.) used in the prepayment model and illustrative prepayment speeds (PSA multiples) for all combinations of values for each of the variables in the prepayment model. The justification of the prepayment rates should reflect an appropriate comparison of prior actual prepayment experience to expected prepayments based on the current assumed prepayment rates.

(7) Defaults per § 95.10(g)

Examples cited by regulation may no longer be appropriate as safe harbors.

Expected defaults should be commensurate with the current market values for investments of like kind and quality. The basis and rationale for default provisions should be explained and justified in the actuarial memorandum, including how such provisions reflect future rating migration and with due regard for current market values.

For all mortgage-backed securities, subprime exposure must be explicitly addressed, including the continued appropriateness of any default provisions carried over from the prior year's analysis.

For general account assets having a net yield pick-up greater than 100 bps in the asset adequacy analysis, a special sensitivity test should be performed where the net yield pick-up, for assets that have the potential to default, is capped at 100 bps. For this purpose, net yield pick-up is defined as the yield pick-up versus comparable investments that are generally regarded as "risk free" with respect to default risk (e.g., U.S. Treasuries) minus default provision based on current market values. The purpose of this test is to provide a common frame of reference to identify situations where significant default risk may exist.

Strict technical compliance for each and every asset may not be possible due to modeling limitations. Professional judgement should be used to produce results that comply with the spirit of this request and a variety of alternative approaches may be acceptable. In any event, appropriate explanation and justification should be provided for the methodology that was employed and the results that were obtained.

This "100 bps net yield pickup test" should be performed for both existing assets (as of the valuation date) and for assumed reinvestments. This test should be performed for at least the Level interest rate scenario. Explanations of the actual methodology that was used and comparisons with baseline results should be included. The appointed actuary should explain and justify the extent to which these results were considered in forming the actuarial opinion.

When applying this test to existing assets, it is recommended that the default provisions be increased as needed to limit the "net yield pickup" versus current Treasuries.

The following is an example of an approach that would be considered to comply with the spirit of this request; however, alternative approaches may also be acceptable. In any event, the provisions for default must reflect current market values. Particular attention should also be paid to assets that have been written down so default provisions are reflective of the amount of the write-down.

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

Example: Corporate Bonds – A Rated – New Business – Net Yield Pickup Capped at 100 bps

	Years – to – Maturity				
	1	2	5	10	20
U.S Treasury	2.0%	2.5%	3.0%	4.0%	5.0%
Corporate Spread (A)	0.4%	0.6%	1.2%	1.4%	1.5%
Annual Default Cost	0.1%	0.1%	0.1%	0.1%	0.1%
Net Corporate Yield	2.3%	3.0%	4.1%	5.3%	6.4%
Net Yield over US. Treasuries	0.3%	0.5%	1.1%	1.3%	1.4%
Additional Default Cost for Sensitivity Test	-	-	0.10%	0.30%	0.40%
Net Yield for Sensitivity Test	2.3%	3.0%	4.00%	5.00%	6.00%
Net Yield Pickup	0.3%	0.5%	1.00%	1.00%	1.00%

In-force investments -- Assume that an in-force bond has the same default characteristics of a new bond with the same credit rating and year to maturity, then add the "additional default cost for sensitivity test" from the table above to the baseline default assumptions in the model.

- Inforce Example 1 - 10 year bond purchased in 2004, originally rated AA, currently rated A -- Add 0.10% to the A-rated default assumption (i.e., treat like a newly purchased five-year, A rated corporate bond).
- Inforce Example 2- 20 year bond purchased in 1999, currently rated A -- Add 0.30% to the A-rated default assumption (10 years left to maturity).
- Inforce Example 3- 10 year bond, purchased in 2001 -- no additional default charge (two years left to maturity).

(8) Interim Results

Regardless of the form of asset adequacy analysis, interim results should be addressed.

For cash flow testing, interim results under the Level scenario must be provided for each projection year and each major line of business (Life, Health, Annuity). "Market value" interim results are not required, but the "book value" interim results must be provided, i.e., by showing the book value of assets, liabilities, and surplus.

For other than cash flow testing, the appointed actuary should make a good faith effort with respect to the analysis and explanation of interim results.

The appointed actuary should explain and justify the extent to which these results were considered in forming the actuarial opinion.

Note:

If there are substantial interim shortfalls (i.e., negative book value surplus) for the Health line of business (on a standalone basis) or for all lines of business (in the aggregate), then meaningful additional reserves will be expected as of the current valuation date. Simply relying on future surplus to cover all projected interim shortfalls may not be acceptable, depending on the timing and severity of the projected interim shortfalls.

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

(9) Asset Adequacy Analysis for Particular Products

For traditional life insurance policies with a level premium for a guaranteed period of ten years or more, followed by a substantial increase in premium after the expiry of the guaranteed level premium, the appointed actuary should include a sensitivity test assuming all business lapses at the expiry of the guaranteed level premium. If results for the sensitivity test are less favorable than baseline results, the baseline expected mortality assumption for the persisting policyholders must be explained and justified.

For universal life insurance policies with secondary guarantees, a sensitivity test should be performed using an annual lapse rate of 1% after the tenth policy year.

For individual fixed deferred annuity contracts, a special sensitivity test should be performed using lapse rates of 25%, 50%, 75%, and 100% when the calculated spread (CS) equals 200 bps, 300 bps, 400 bps, and 500 bps, respectively (and interpolated in between these rates). The CS should be determined as the competitor rate (C) minus the credited rate (CR) minus the surrender charge (SC) divided by 3 (i.e., $CS = C - CR - SC/3$); the competitor rate assumptions used should be explicitly stated and justified. The CS should be floored at zero. This sensitivity test should be performed for each of the increasing scenarios (i.e., those specific scenarios referenced in Sections 95.10(d)(1)(ii), (iii), and (iv) of Regulation 126).

(10) Variable Annuities with Guaranteed Minimum Death Benefits (GMDBs) and Living Benefits (VAGLBs)

For individual variable annuities having these types of guaranteed benefits, two summaries should be provided. The first summary should include direct and assumed business, before reinsurance ceded. The second summary should include direct and assumed business, after reinsurance ceded.

Each summary should include the following details:

number of contracts, account value, cash surrender value, guaranteed minimum death benefit, guaranteed living benefit, reserve net of CARVM allowance, additional reserve for guaranteed minimum death benefit and guaranteed living benefit (combined or separately).

These details may be provided as of 9/30/09 or as of 12/31/09.

For this summary, the "guaranteed minimum death benefit" should be the death benefit as of the valuation date, whereas the "guaranteed living benefit" should be the present value of the "guaranteed living benefit" assuming 100% election at the earliest opportunity.

Present values should be based on the Level interest rate scenario, i.e., the beginning yield curve used for asset adequacy analysis. Projected benefit values should be consistent with the methodology used for asset adequacy analysis.

If the present value of the "guaranteed living benefit" is less than the current account value, the current account value should be used.

This summary is intended for risk assessment purposes only, i.e., to ascertain whether or not these guarantees may pose a material risk to the company.

The appointed actuary should comment on the materiality of these benefits and explain the key benefit variations (e.g., return of principal, rollups, ratchets, etc).

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

(11) Companies with Exposure to GMDBs and VAGLBs

For companies with over \$500 Million of account value related to VAGLB's and where the amount of related account value is greater than 2% of the company's total statutory reserves, the following details need to be provided as of 9/30/09 or as of 12/31/09, even if these benefits have been fully reinsured.

- Present values of expected cash flows that are attributable to contracts with guarantees for VAGLBs and GMDBs, for inforce business as of the valuation date.
- Present values should be based on the Level interest rate scenario, i.e., the beginning yield curve used for the asset adequacy analysis.
- These present values should be computed for two equity scenarios:
 - (i) 20% immediate drop, 5% annual recovery starting at beginning of second year
 - (ii) 20% annual increase for 5 years, followed by 15% annual drop for 5 years, followed by 3% annual recovery
(This second scenario is required only if there are ratchet or reset designs.)

These assumed growth rates for equities are before deduction of M&E charges.

- For both scenarios, a 100% election rate should be assumed for GMABs (Guaranteed Minimum Account Balance) at the earliest opportunity where exercising the guaranteed benefit option may be advantageous to the contractholder. A 20% election rate should be assumed for other VAGLBs at the earliest opportunity where exercising the guaranteed benefit option may be advantageous to the contractholder, with 20% utilization assumed for each successive year where exercising the guaranteed benefit option may be advantageous to the contractholder.
- Key assumptions (mortality for GMDBs, lapses, fixed income returns, etc.) should be explained and justified, including the extent of the margins needed to satisfy "moderately adverse conditions" requirements of the asset adequacy analysis.
- The present value of the M&E charges and the deferred contingent surrender charges (i.e., surrender charges on lapsed business) should be shown separately with comments as to what portion is needed to cover related expenses, what portion is needed to amortize the CARVM allowance, etc.
- For guarantees where an income stream is in the money under one or more of the "New York 7" interest rate scenarios, (the present value of the GMIB or GMWB exceeds the account value), the applicable New York 7 interest rate scenarios shall be used as part of the testing because the products contain risks similar to those present in payout annuities.
- These present values should be shown before reinsurance ceded and after reinsurance ceded.

In addition, for companies falling within the VAGLB account value-related scope stated above in item 11, provide the total option value of VAGLB's, calculated on a seriatim basis, along with the methodology used to determine the option value.

Note: in reviewing variable annuity cash flow projections (including asset adequacy analysis, Life RBC Phase 2 analysis, and "VACARVM"), the Department's review may include, but is not limited to, the following:

- (a) Are the assumed ultimate lapse rates on a guaranteed living benefit that is more than 20% in the money not greater than 1% per year?
- (b) If so, is the assumption based on credible experience?

New York State Insurance Department's Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues

(12) “Profits Released” Special Sensitivity Test for Asset Adequacy Analysis per Regulation 126

A special sensitivity test should be performed (at the company-wide aggregate level) to measure the dependency of results on assumptions that all projected profits will be retained rather than released. This test can assume that some portion of the projected profits will be retained but the rationale must be provided. For example, profits are retained to the extent needed to satisfy the estimated risk-based capital requirements for projected inforce business.

(13) Review Criteria for Asset Adequacy Analysis per Regulation 126

In order for the Department to review whether or not the “moderately adverse conditions” testing requirement is being met for Regulation 126 asset adequacy analysis, the Department will consider the following aspects:

- (a) Are all material assumptions clearly explained and justified, including validations to historic results and/or industry data?
- (b) How is materiality determined?
- (c) Does each material assumption include explicit margins?
- (d) Does the Company have prior approval to aggregate across major lines of business (e.g., Life, Health, and/or Annuity)?
- (e) Where cash flow testing is performed, are the company aggregate results positive under all NY7 interest rate scenarios?
- (f) Does cash flow testing incorporate the “market value” criteria as required per Section 95.10(i)?
- (g) Are all material changes in assumptions from the prior year’s analysis explained and justified, with the impact quantified?
- (h) To what extent are negative results reduced by anticipated federal income tax offsets? Are such offsets truly recoverable?
- (i) Are descriptions provided for material reinsurance treaties, including situations where all business is ceded?
- (j) Has deliberate conservatism been added to the extent data is lacking?
- (k) To what extent is securities lending material to projected cash flows and how has this been taken into account?
- (l) Are material borrowing assumptions clearly justified in terms of the company’s actual capacity to borrow funds?
- (m) Has the ongoing availability and affordability of reinsurance-related letters of credit been clearly addressed?
- (n) Have expected future funding requirements of reserve credit trusts along projection scenarios been clearly addressed?
- (o) Have all derivatives used for hedging or replication been clearly explained and their impact appropriately reflected?
- (p) Did the analyses explicitly consider subsequent events from the valuation date to the date the opinion was rendered?

(14) Review Criteria for “Sound Value” Requirements per Regulation 56

In order to determine whether or not the Regulation 56 “sound value” reserving requirement is being met for LTD and LTC, the Department’s review may include, but is not limited to, the following aspects for the standalone asset adequacy analyses referenced in item (3) above:

- (a) Asset adequacy analysis should anticipate no premium rate increases unless they have been approved and implemented.
- (b) For LTC business, does cash flow testing produce positive results on at least a pop-down 100 bps interest rate scenario?
- (c) For LTC business, are the assumed ultimate lapse rates (i.e., for policy years 15 and later) not greater than 1% per year?

Life Risk-Based Capital Analysis

Life RBC Phase 1 and Phase 2 analyses should provide at least the same level of conservatism as asset adequacy analysis with respect to assumptions other than interest rate scenarios. Life RBC Phase 2 stochastic testing should include special sensitivity tests, performed separately, as follows:

- (1) Excluding impact of revenue sharing that is not contractually guaranteed;
- (2) Excluding impact of hedges not actually held as of the valuation date;
- (3) Using “standard scenario” lapse assumptions. Where standard scenario assumptions are a function of in-the-moneyness of a guarantee, in-the-moneyness at a projection point shall be calculated using the current value of the guarantee at that projection point and the account value at that projection point.

**New York State Insurance Department's
Special Considerations relating to December 31, 2009 Reserves and Other Solvency Issues**

Market Value Adjusted (MVA) Annuities

For companies with inforce MVA annuity contracts, funded in a separate account with assets valued at market, submit:

- 1) the actuarial opinion and memorandum as required by §44.11(b)(1)(v) of Regulation 127, and
- 2) for contracts subject to §44.11(b) of Regulation 127, the Macaulay durations of the assets and of the liabilities

For companies with inforce MVA annuity contracts, funded in a separate account or in the general account, with assets valued in accordance with §1414 of the Insurance Law and with reserves calculated in accordance with §44.11(c)(1) of Regulation 127, submit:

- 1) the actuarial opinion and memorandum as required by §44.11(c)(2)(v) of Regulation 127, and
- 2) the Macaulay durations of the assets and of the liabilities (§44.11(c)(2)(iii) of Regulation 127)

Regulation 128 business

An actuarial opinion and memorandum as described by Regulation 128 should be submitted for all such business including synthetic GICs. Asset adequacy analysis should handle synthetic GICs consistently with non-synthetic GICs.

Additional Guidance

Questions concerning this letter should be directed via e-mail to [Mark J. Greene](mailto:Mark.J.Greene@dois.state.ny.us), FSA, MAAA (Supervising Actuary – Life) or by phone at (518) 474 – 6605.