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DEREGULATION OF LIFE INSURANCE

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1. How much "deregulation" do we want?

2. How much regulation is desirable:
   - From the actuary's professional viewpoint?
   - From the public's viewpoint?
   - From the life insurance industry viewpoint?

3. Do we want company actuaries to have more responsibility? If yes, are we independent enough to enforce adverse positions within our companies? Do our guidelines meet our needs adequately?

4. Some items for discussion:

   - Realistic outlook for continued state regulation.
   - Adoption of U.K. concepts of interest rates, valuation of reserves and surrender values.
   - Canadian regulatory practice.
   - Status of various proposals to eliminate guaranteed cash and loan values.
   - Elimination of:

     a. Deficiency reserve requirements.
     b. Agency compensation limits.
     c. Policy forms filings.

RICHARD A. BURROWS: The intention of this session is to record your views on this subject. Each panelist will make a short presentation - much shorter than his experience would warrant. The order of presentation will be: William A. White, who has spent 20 years with insurance companies, one year with the American Council of Life Insurance and thirteen years as a regulator with the insurance department of the state of New Jersey where he is Chief Actuary. Frank W. Speed will follow Bill. Frank is Vice President and Actuary of the Canadian Life and Health Insurance Association where he has spent fifteen years. The other half of his career was spent as an actuary with both life companies and consultants. Michael F. Davlin will follow Frank. Mike has been with Transamerica Occidental for nine years. He has recently co-authored a paper to appear in the Transactions on the subject of universal life cash values and reserves. R. Fred Richardson will conclude the remarks, calling on his broad experience. Fred has been a Chief Executive Officer of insurance companies in Britain, Canada, and the United States. He is currently president of the Hartford Insurance Group. He has spent eight years in the United Kingdom, twenty years in Canada and six years in the United States. In addition, his duties have exposed him to regulations in several other jurisdictions.

MR. WILLIAM A. WHITE: After twenty years with life insurance companies, one year with a trade association, and thirteen with the New Jersey Insurance Department, it is my perception that most actuaries do not know how insurance regulation works and how it is changing. This lack of knowledge generally doesn't deter actuaries from criticizing and suggesting radical modifications to, or even the complete elimination of, regulation. Unfortunately, the process often constitutes the construction and demolition of a "straw man", with no lasting effect other than reinforced hard feelings among all participants in the regulatory process.

The Society's Open Forum on Deregulation presents a rare opportunity--the opportunity for life insurance professionals to identify important problems within the industry and its regulatory environment, to discuss and analyze those problems objectively, and to explore practical alternatives to their solution. At worst, a better understanding of differences and their reasons will result; at best, we may be able to propose to legislators and other decision-makers in the regulatory process actions which can make regulation more efficient and responsive to the interests of the publics we all strive to serve. Please note that this is not a call for participants to hold back or to temper their criticisms. What I am suggesting is that criticism be addressed to real--not imagined--problems and that the criticisms be accompanied by practical, constructive proposed solutions.

The note concentrates on the concept of life insurance regulation and its necessity, rather than the regulatory apparatus which exists in the United States today. The first section addresses regulation in general terms to justify governmental intrusion into the private affairs of companies or people. The second section identifies the relatively unique characteristics of life insurance that necessarily trigger that governmental involvement--the offering and sale of long-term financial promises. Section three traces the evolution of life insurance regulation in the United States and concludes that regulation is a creature of the life insurance industry and represents a codification of the practices of the most respected insurers. The final section offers a few personal observations on the pitfalls of deregulation--particularly, the fallacy of "competition in lieu of regulation" and the impact of deregulation on our professional actuarial obligations.

1. Regulation in General. A "zero-base" approach to regulation starts with the popular--and, I believe, valid--thought that the best government is no government at all. This, of course, is not a justification for anarchy, but a wish for a Utopian civilization where the qualities of wisdom, self-sufficiency, and ethical conduct are so universal that government is superfluous. To the extent that these qualities are not universal, government inherits obligations that fall into one or the other of two categories: to protect persons who are unable or unwilling to protect themselves; and to provide for persons who are unable or unwilling to provide for themselves. (The word "person" is used here as defined in the insurance code and includes individuals, insurers, companies, associations, organizations, societies, partnerships, syndicates, trusts, corporations, and every legal entity.) The definitions of "those unable or unwilling", the degree to which government "protects or provides", and the means by which all of this is accomplished are things of which politics is made and, ideally, reflect the collective and changing will of the public. Virtually every activity on every level of government falls into or

supports (revenue raising, judiciary are examples of support) one of these two categories, with most insurance regulations classed as protection.

This definition of the purposes of government may seem so obvious to be axiomatic, but it provides a useful framework for answering the question in the next section--what are the features of life insurance that justify regulation?--and it is important for what it does not say. For instance, it does not say that government exists to run, manage, control, make independent judgments for, or meddle in the affairs of persons; nor does it say that government exists to keep bureaucrats, politicians, and lobbyists off the welfare rolls; and it says nothing about promoting personal ego trips and building personal empires. As the Open Forum directs criticisms toward various features of life insurance regulation, it may be helpful to make this distinction: Is the feature of regulation under attack a legitimate function of government, or is it an aberration of those legitimate functions?

2. The Life Insurance Product. Two characteristics of life insurance justify regulation. First, life insurance is essentially a promise, a fairly unusual kind of promise. In exchange for the policyholder's dollars today and/or periodically in the future, the insurer promises to deliver dollar benefits to the insured or his beneficiaries at indeterminate but carefully defined future dates which may extend several decades beyond the date the contract is made. Second, life insurance is, for most, a mystery, a product with near-infinite variations whose nature has largely escaped our educational processes, which is defined in obscure legalistic terms, and which is only vaguely understood by the most sophisticated purchaser.

   In terms of "protecting those persons unable or unwilling to protect themselves", these unusual characteristics provide two reasons for regulation. The first (chronologically or historically) involves the performance of the insurer--his ability to deliver on his promises. State laws concerning the valuation of liabilities, the composition of assets, minimum capital and surplus requirements, regulatory accounting practices, and periodic examination are the responses to this concern. The second reason (of relatively more recent importance) has to do with the nature of the product and the methods by which it is marketed. The legislative response is policy form requirements (filing and review, required and prohibited provisions, nonforfeiture), agent licensing, and trade practices. Trade practices is probably the most open-ended of these laws and has been elaborated into regulations affecting disclosure, replacement, and market conduct.

3. Evolution of Life Insurance Regulation. It is not much of an exaggeration to say that life insurance regulation today is a reaction to abuses that existed within the industry a century ago. These abuses were cataloged in 1905 by New York's Armstrong investigation and gave rise to the New York insurance code which has served as the basis for every State's insurance laws since 1909. Those laws, rather than being brand new and radical requirements, represented a codification of the practices of the older and more conservative companies operating in New York. In the seventy-four years since 1909, there have been many changes to the life insurance laws--more often than not, liberalizations. In most cases, these changes have been drafted, introduced, and shepherded through the legislative process by companies domiciled in the affected states or by their trade associations. (Much of the drafting of laws occurs within the

National Association of Insurance Commissioners, where "industry advisory committees" suggest model laws which are reviewed, adopted, and occasionally modified by the Commissioners or their staff.) I am not personally aware of any significant law affecting life insurance in New Jersey where this principle of industry-authorship does not apply.

Regulation by an insurance department represents nothing more nor less than the executive branch's enforcement of the laws imposed by the people's elected representatives. For purposes of the Open Forum's discussion, this has two important implications. One, when industry criticizes regulation, it is criticizing something for which it is primarily responsible; criticism of your own child might be more tolerant and constructive than criticism of someone else's child. Two, industry still controls regulation--if industry really wants to change it further, or even eliminate it, it probably can.

4. Observations. In no particular sequence:
   - Quoted out of context, the statement that "regulation is a reaction to abuses that existed a century ago" can be very damaging to the cause of continued regulation. Times have changed, the industry has changed, our society has changed, the insurance product and technology have changed. But has human nature changed?

   - The marketplace benefits of "competition" are often urged as a preferable alternative to regulation. "White's Rule on Competition": In an unregulated environment, the life insurer that will compete most successfully is the one with the least concern for its ability to deliver on its contractual commitments.

   - The actuary, more than any other individual associated with an insurer, relies on regulation. On the one hand, compliance with "applicable statutory or regulatory standards" seems to be an acceptable alternative to professional judgment. (Guidelines, 3.d) On the other hand, complaints or inquiries to regulators are one of the most effective methods for identifying and policing questionable practices of other companies' actuaries. As we consider deregulation, we should also consider the resulting increase in actuarial responsibility and ask whether the profession's professional conduct guidelines, enforcement procedures, and independence are suited to the additional responsibilities.

It may be a mistake to think of the Forum's topic as "regulation versus deregulation". A better paraphrase might be: How much more deregulation does the industry need or can it tolerate? Experienced observers of the regulatory scene can document definite moves toward less regulation of life insurance during the last decade or two. Contributing to this are liberalizations of valuation, nonforfeiture, and investment laws; a flood of new and very complex life insurance products; holding-company structures that compartmentalize the reporting of financial operations and that serve to avoid the regulation of "difficult" states; exotic reinsurance arrangements that generate "surplus" so as to distort a company's true financial condition; and sharp cutbacks in insurance department budgets and personnel devoted to life insurance.

MR. FRANK W. SPEED: This morning at breakfast, Bill White commented that the kind of regulation that we have in Canada is something that the industry in the United States might like to have. So perhaps it is appropriate that what I intend to do is to run over very briefly the kind of regulation we do have, and you will perhaps appreciate why there is no pressure for deregulation in Canada other than in certain specific areas. The situation is basically that the regulators in the industry have developed a mutual self respect that is working very well from the point-of-view of the regulated, and from that of the public. So with that brief introduction, I have some prepared remarks which, as I said, will very briefly give you a picture of how we are regulated in Canada.

The program asks how much deregulation we want, and how much regulation is desirable. I found it helpful to consider several categories of regulation separately. It occurred to me that while we might want deregulation in some areas, in other areas we might be relatively satisfied with things as they are, or perhaps we might be willing to have a little more regulation. You might say "God forbid" to that, but don't forget that in Canada we are starting from a different position than you are in the States. The categories that I found helpful were:

1. Regulation defining and inhibiting insurers' powers to develop and market products and services.

2. Regulation relating to solvency, and the power to deliver the promised guarantees, including rate regulation and investment regulation.

3. Regulation of marketing practices.

4. General regulation not exclusively directed at life insurance, such as human rights, pension, securities, consumer protection, compensation and tax legislation.

5. Self-regulation. This may come as a bit of a surprise to you, but it is a live topic in Canada.

I will first deal with regulations relating to companies' powers. Since the vast majority of Canadian companies are federally registered, and all foreign companies must be federally registered, I will talk only about the federal legislation. Most of the non-federally-registered companies are Quebec-incorporated, and their situation is somewhat different from that of the federal companies.

In this area Canadian companies are pressing hard for what you might call "deregulation". They want expanded powers to develop and market new products and services, or conversely, a loosening of the restrictions in the present governing legislation. Existing regulation reflects a traditional demarcation between financial institutions which has become less realistic and meaningful in the modern competitive environment. The insurance industry faces powerful competition from the banks, trust companies, credit unions, caisses populaires, and securities firms in the hot pursuit of the savings and investment dollar.

The government, in the process of modernizing the legislation of all of the financial institutions, has so far dealt only with the bank legislation, extending the banks' powers so that they are moving into new areas. This is of considerable concern because of the size and the power of the banks in Canada. To give you some idea, the three largest banks in Canada are each individually larger than the whole life insurance industry in Canada.

The life insurance industry wants a "level playing field" in terms of legislation so that it can compete for Canadians' savings dollars with the other financial institutions.

A related issue is the desire for a level playing field between the stock and the mutual insurance companies. The larger stock companies are already diversifying through up-stream holding companies, something that is not open to the mutuals. Diversification possibilities through down-stream holding companies are very limited.

In the area of regulation relating to solvency (which is again principally in the domain of the federal authorities) the one thing for which the federal authorities are looking is increased capital and surplus requirements on the part of companies. They are suggesting $6 million in capital for a newly formed company; this is something the industry is prepared to go along with.

Another thing the authorities are seeking is the right to modify a company's corporate powers to cede reinsurance, principally because of the recent failures of three property and casualty companies as a result of reinsurance problems. The proposed new requirements do not greatly impact the life insurance industry, but there are some concerns.

There are no minimum valuation nor minimum nonforfeiture laws in Canada. Whole life policies have begun to appear without cash values. Most of these have paid-up and extended term insurance values, but whole life policies without nonforfeiture values have begun to appear. This type of policy has caused some concern to both the regulators and the industry. With regard to policy reserves, existing legislation requires an insurer to appoint a valuation actuary, responsible directly to the Board of Directors, who is required to certify in a government statement to the adequacy of the reserves. The regulatory constraints on the valuation actuary are not particularly onerous.

Neither premium rates nor dividend scales need to be filed for approval in Canada.

The only active deregulation issue under this category of regulation has to do with investments. The industry is currently pressing strongly for less restrictive investment regulation...as a repeal of the "permitted investments" concept and a move to a "prudent management" concept. This simply means leaving the management to make those investment decisions that are most suitable to each company's needs.

Regarding Marketing practices which are in the provincial domain, there is little of this type of regulation in Canada...no requirements for filing policy forms or promotional material, except in the case of equity-linked contracts, nor any requirements for cost comparisons or point-of-sale disclosure.

Both the industry and the regulators are luke-warm to the existing replacement regulations in several provinces, and I suspect that there could be some deregulation there except for the opposition of the agents.

Regarding the licensing of agents, several provinces are eager to divest themselves of the administrative burden of examining and licensing agents, while retaining the ultimate responsibility. That is the right to de-license an agent if they want. While the industry would prefer this matter to be left with the authorities, it is co-operating in developing alternatives.

In the area of general regulation, the industry could do with less in the human rights area. Apart from the unisex issue, human rights officials are beginning to question underwriting decisions. At the moment, for example, comany decisions are being challenged in specific cases with respect to the underwriting of diabetes, alcoholism, psychiatric counselling and blindness, principally with respect to loss of time coverage. The regulatory problems in this area seem likely to get worse.

Pension legislation is currently in a state of flux in Canada and is becoming more and more varied from province to province. It is an important area of regulation to insurers because at the end of 1981, 56% of their total premium income came from annuities...largely from pension related business.

Securities legislation is not a major problem for insurers in Canada. Most variable products are exempted from securities regulation, and no one is issuing the type of product that is not exempt.

And finally there is the question of self-regulation. For years we have had a situation in Canada where the Association of Superintendents of Insurance decides (in consultation with the industry) upon various types of guidelines, and the industry voluntarily follows the guidelines. This type of informal arrangement has made it possible to avoid quite a bit of specific regulation. It does seem, however, that this situation may be changing. Also, in the last ten years or so the Canadian Life and Health Insurance Association has developed guidelines in certain areas which have a high degree of adherence by its member companies. These have, perhaps, made the regulators feel less need for formal regulation.

At the moment, the Association is in the early stages of exploring the possibility of more formal self-regulatory arrangements.

In summary, you can see why the industry is perhaps not all that unhappy with the situation as it is and that there is no great pressure for deregulation in Canada.

Our latest public opinion survey reports a dramatic increase in the number of people who say that government regulation of the life insurance industry would do more harm than good, to the extent that they now out-number the people who would like more strict regulation than at present. About half of those surveyed seem to be relatively content with things as they are. The truth of the matter is that probably none of those surveyed really knows how much regulation of life insurance there actually is and are just expressing a point of view about government in general.

MR. MICHAEL F. DAVLIN: The first item of my agenda is to make the usual disclaimer, which is that the opinions I am about to express are my own and do not necessarily coincide with those of my employer. Rich asked us to be as brief and provocative as possible in our opening remarks, and my provocative position briefly stated is that I believe insurance consumers are best served by unregulated insurance producers. This somewhat extreme position will be impossible to justify in the few minutes that I have available right now, but I will do my best to give you at least a picture of where I stand on the issue.

I intend to stress the theoretical as opposed to the practical aspects of the age old debate on regulation. To do this I will present capsule summaries of the arguments in favor of free markets which were put forth by nineteenth and early twentieth century economists. I will follow that with some rebutals that were developed and vigorously presented in the 1920's and 1930's and are still taught on our syllabus. After outlining a new view of the marketplace which has gradually developed over the last couple of decades in this country, we should be in a better position to evaluate the pros and cons of insurance regulation.

In a nutshell, the classical economists argued that, left to itself, a market economy will in the long run achieve an equilibrium: an optimum state such that no one can be made better off without putting someone in a worse position. In arriving at this conclusion, many questionable assumptions had to be made concerning costless and perfect information, the absence of transaction and contractuing cost, and the nature of the infamous "homo economicus".

Needless to say, this view of the market did not leave an awful lot of room for governmental intervention. But happily for advocates of regulation, it was not too difficult to discredit this view by comparing its core assumptions with the real world. Perceived market failures were attributed to the facts that consumers and producers are not perfectly informed; markets never reach anything remotely resembling equilibrium; consumers and producers are often motivated by factors other than and in addition to money; Public goods. . . police, fire prevention, education and the like . . . would tend to be under produced; and third-party effects or externalities (pollution is probably the best example) would be prevalent if not rampant. The obvious solution of these imperfections, of course, was regulation by government. This viewpoint, which was supported by both professional economic opinion and by laymen's intuition, became a virtually unchallenged orthodoxy. However, this orthodoxy has recently begun to crumble in the face of both experience and a newly developed theory of micro economics. Also, people have noticed that the solution begged a few questions of its own.

Unlike its predecessor, the new micro economics takes elements of the real world as its starting point. The assumption of perfect information has been replaced by the recognition that individuals differ with respect to their knowledge, interpretations of events, their expectations, their alertness and their preferences. Information is no longer viewed as something that is somehow given to decision makers, but is considered to be an economic good that is produced at a cost in response to market demands. The market itself is viewed as a dynamic competitive process as opposed to a static equilibrium. Under this new perspective, the economic problem faced by society is viewed as the need to insure that as far as possible, the available bits of scattered knowledge of separate individuals can somehow be mobilized to contribute to the relevant decisions that affect the pattern of resource allocation. In comparing free and regulated markets, we must evaluate the ability of each institution to efficiently generate useful information, the incentives under each institution to utilize the information generated, and the feedback each participant receives on his decisions.

The information to which I am referring is not just technical or scientific knowledge, but also includes the vast amount of particular facts that are only known to each individual--the consumer's beliefs, preferences and expectations, attitudes towards risk and waiting, and opportunity costs.

These particular facts are constantly changing and are simply not freely available to the regulator who wishes to improve upon the performance of the free market. To the contrary, regulators tend to be deluged with a vast amount of information from the entities that they are supposed to regulate. There is nothing sinister about this; it is simply a matter of cost and benefits. An individual consumer would incur very large costs in keeping regulators appraised of his circumstances and would receive very few, if any, benefits from doing so. The situation is exactly reversed for producers, especially the large ones. The net result of this is that, over time, regulatory bodies tend to adopt the beliefs and perspectives of the industries they regulate. As Bill White pointed out for our industry, the demand for regulation more often than not comes from within the industry. While these proposals are usually framed in terms of the public interest, I would argue that many of them are simply veiled attempts to stifle competition.

Even if they costlessly gained the relevant knowledge, there is no guarantee that regulators would have the incentives to use it to the consumer's benefit. The incentives faced by regulators are shaped by the facts that they are appointed, not elected and that there are lucrative future employment opportunities in the regulated industry. (Like most industries, we have a lot of "revolving door" employment.) There seems to be a built-in bias towards an overly cautious attitude to new ideas. Consumers will never miss a good idea that they do not notice because it was never approved, but all hell can break loose if a new idea, product, or company proves to be a failure. On the other hand, there is little opportunity for a windfall gain to the regulator if he approves a new concept that proves to be wildly successful. From the standpoint of the consumer, I believe that regulators do not face a rational risk/reward incentive structure, but they do act rationally to the incentives that they actually face. In view of these facts, to expect regulators to act in the public interest seems at least as naive as the old view of perfect markets.

There have been a few references to "self-regulation" by the industry. I think similar arguments apply to this proposal. The "industry" is not of one mind on how to conduct business, but is comprised of many entities, each with its own opinions and mutually incompatible goals. I do not see how one can expect professional guidelines to emerge from such a situation which are designed to benefit the consumer rather than to club the competitor.

I do not believe the alternative to regulation is chaos, because there are market alternatives to a lot of the things that regulators are trying to achieve. However, many of them have either atrophied or never fully developed in an environment where government is perceived to freely provide consumer protection.

In the area of disclosure, the consensus seems to be that the more information we can give the consumer the better off he will be. Actually, I think that this is contrary to the direction of progress. As the philosopher Whitehead noted, we are truly better off the easier it is for us to make decisions without having to think about them. There are two types of information that we need to make a decision. One is our own particular circumstances regarding attitudes, beliefs, opportunities, situations, etcetera, which we are best suited to know; and the other is technical knowledge about the product in question, competitors' products, and things that specialists are in the best situation to know. If there were truly a demand for this second type of information, there would be profit opportunities to motivate specialists to provide it to those in the marketplace who are willing to buy it. But since there is a cost associated with producing information, its purchase involves an individual value judgment: some will buy and some will not. Why not let the consumer decide this question for himself? Disclosure laws require that certain information be provided, whether or not it is particularly relevant to the consumer. Echoing Bill White's comments, the information required to be disclosed is largely determined by industry advisory committees. An example of where I think this has been to the consumers detriment is our interest adjusted cost figures. We discount at extremely low rates of interest and thus distort the cost of capital or opportunity cost of money facing the prospect. This creates an unjustified bias towards participating plans and universal life, and can lead to erroneous purchases by those who rely on this type of "information".

The regulatory approach to consumer protection involves a combination of investment restrictions, valuation laws which create redundant levels of assets, and in some states the safety net provided by insurance guaranty funds. The investment restrictions, surplus requirements, and valuation laws do arguably provide a level of safety, but at the cost of a lower return to the consumer. The individual consumer is allowed little flexibility in striking his own desired balance between risk and return. I have several philosophical objections to guaranty funds. The most fundamental objection is that guaranty funds can only make assessments after an insolvency has occurred. As with FDIC coverage, there is no relationship between the risk posed by any product or company and the cost of providing the consumer protection against loss. A frequent result is that the consumer who purchases a proven product from a prudent company often winds up with reduced dividends in order to compensate for the losses incurred by the less cautious choice of another consumer. This is an inappropriate form of subsidy.

Given that some consumers truly demand protection, there would be entrepreneurial opportunities, in the absence of regulatory provision of consumer safety, for an enterprising insurer to write surety contracts on policies issued by other companies. We are just now beginning to see something like this developing in the area of money market funds, and there is no fundamental reason why this cannot work in life insurance. This market alternative has the added advantage of generating very useful information for the prospective consumer in evaluating risk and return. But for our tax law, consumers could achieve a good degree of safety at low cost simply by diversification: splitting their insurance, putting it into one company and placing their savings in other entities. Of course, the current tax advantages offered by our contracts create a disincentive for the consumer to pursue this avenue to safety.

In summary, my basic position is that regulation does not produce a "good" that cannot be produced in the marketplace. For the most part, the regulatory approach merely substitutes a regulator's preferences for risk and return for those of the individual consumer.

MR. R. FRED RICHARDSON: First,I thought that Bill White's discussion note did a very excellent job of saying what we ought to be trying to achieve at this Forum, and also provided a pretty good defense of the need for regulation of some sort. Despite what Mike has just said, I suspect there are very few of us in this room who have either the courage or the conviction to go for no regulation. So I personally think that it is not deregulation in the absolute sense that we are likely to debate this morning, but rather deregulation in specific areas where a combination of environmental change and industry inertia has left us with regulations which have not only failed to protect the policyholder but, in fact, in some cases, have turned them into an endangered species.

Like Bill and all of you, I come to this discussion influenced by my own experience. In my case this is predominently in general management rather than as a professional actuary. As Rich mentioned, I have been responsible for companies directly in Canada, in Britain and in the United States. In addition, I have had supervisory responsibility for companies in Germany, Holland, Italy, Jamaica, Trinidad, and even a little in Bermuda. So in each of these countries, you can imagine, I have had to have a lot of experience in dealing with the regulations and with the regulators, because we are all affected by them. Not only from that background, but from my feeling for what the current political environment is in this country, I find it interesting and even exciting that we call this session "Deregulation". Of course, that could just be a slip because, as far as I can see, the industry is programmed to reregulate everything, not to deregulate anything. I think we really have for the first time the political and the economic environment in which we could seriously consider certain forms of deregulation, and I think that is what a professional group should be doing at this time. As that discussion note that Bill wrote said, our current regulation took its form and direction from the Armstrong investigation, which for most of you in this room, did happen quite a little while ago (even before I came into the business), back in 1905. Since that time, I would suggest that we have just been reregulated; we have not been deregulated.

The economic changes in the past several decades, particularly with emphasis on the impact of inflation, have removed the basic underpinning of the current insurance regulations. That underpinning is based on stable economic conditions. From this arise our reserve requirements, our cash value requirements and our loan requirements. Naturally, over the years, the regulations have reflected the needs of the regulators and their legislative bosses, and the needs of insurance management and their shareholder bosses.

Regulators, of course, have a need to have clear written rules from which <u>not</u> to deviate. Legislators need something that sounds like protection for voters (consumer safety, disclosure, guarantees, that sort of thing) but at the same time keeps the insurance lobbyists happy and contributing.

Of course, insurance management needs rules that make it possible to be profitable with minimal risk and the least possible differentiation between good and mediocre management (mediocre, of course, meaning most). Now if you detect that the real consumer, that is our policyholder, has very little to do with this regulatory process, and might possibly come out paying heavily for it, I suggest you are right. Given 80 years to work on this system, this coalition was bound to produce what we now have. That is, massive regulation which inhibits the function of a free marketplace to provide the buyer with competitive reliable goods, delivered in an efficient manner. With the economic changes associated with inflation, the marketplace is now striking back at the regulatory structure which inhibits this natural thrust. And that is the way marketplaces eventually operate. They eventually win; marketplaces always do. Now if we in life management who have been protected by regulation do not assist in dismantling it in a sensible way, we can expect that other institutions will replace us in the function of providing for the security of our policyholders against the case of living too long.

So, in our own self interest, let us just take a quick look at deregulation. Let us assume that we want only regulation that is in the best interest of the consumer. Much could be achieved in only a few areas if we start from the basic principles: reserves, cash values, loan values, loan interest rates. Insurance companies have a long-term financial trust so they have to hold adequate reserves, and this <u>should</u> and must in my opinion be required by law. However, this is the area of the professional responsibility of the actuary. The actuarial profession should set and maintain reasonable standards of safety. Any attempt by regulation to set fixed standards is, and will be, demaging to the consumer in a rapidly changing world. It slows down product change and adaptation. It imposes unnecessary expense on the consumer. The current reserve situation creates prohibitive expense in redundant reserve requirement.

The British insurance industry, believe it or not, has managed for over 200 years without reserve standards, without cash value requirements, nor loan requirements, nor loan interest rate requirements. Isn't that amazing? They have actually survived! The policholders (and I did a little study of this over the last 30 years) achieved a 30% better rate of return on their money over that period of time than the policyholders in our country. That is pretty expensive protection. In Canada, as you heard earlier, they have moved in this direction under pretty enlightened regulation. It is unfortunate that this is in sharp contrast to their tax regulation, which is somewhat darker.

Of course, if we did move in this direction, it would put responsibility (to which you have not been accustomed) on you, the actuaries, and as in Canada, many of you would be feeling a little uncomfortable with that responsibility. On the other hand, why did you spend all those years studying to be an actuary if what you are going to do is duck your fundamental responsibility and leave it to a bureaucracy?

Reserves should be the professional responsibility of actuaries. The state should have an actuarial supervisory board to monitor and, if necessary, adjudicate. Of course, adequate reserves should be required by law, but the adequacy should be left to the professional competence of actuaries, both in the companies and at the state house. All detailed regulations should be eliminated. Legislated reserves, interest rates, guaranteed cash values, guaranteed loan values, and guaranteed loan interest rates are simply ludicrous in today's enviornment. Putting responsibility on the actuary for reserves would resolve this mess. Those of you who felt that guarantees continue to make some market sense would reserve accordingly, and then as Mike pointed out, you would leave it up to the customers to adjudicate whether the cost of that guarantee was worth it. And as I heard in one of the former debates this morning, it certainly proved not to be worth it in Britain. Some companies, including mine, offered maturity guarantees on variable policies. We soon found that the customer was not willing to pay the price of those maturity guarantees, so he does not get them any more.

Policy contract control is a classic area of nonproductive regulation from the consumer's point of view. Here again, we have many examples all over the world of jurisdictions which range from no approval and no specific conditions, to total preapproval only given if it meets lengthy standards (and at least one country including that it must be checked out by six or seven of your major competitors to make sure they like it). I have worked with all kinds of these. There is no doubt in my mind that deregulation here would have some of the following impacts.

- Much greater innovation with products in a timely manner to meet changing conditions.

- Much better competitive reactions to new ideas and situations.

- Much less expense, delay and general frustration.

- Fewer bureaucratic jobs. Not just in the regulators, we have a lot more of them in the companies than the regulators could afford. It is getting rid of the bureaucratic jobs in the companies that would be the big thing.

- Yes, of course, there would also be an increase in the fine-print restrictions that companies would put into their policies. Customers would have to worry about and look at these, and their intermediaries would have to study these for them.

- There would, of course, be a much greater need for good management to stay alert and to respond to new pressures.

Generally speaking, I have seen no evidence that the British insurance industry, where no preapprovals are required, nor standard clauses imposed, has taken unfair advantage of the customer. That they can react quicker is very clear. In the end, the decreed wordings more often than not protect the insurance companies rather than the customers. The customers pay the whole shot, and they make do with less competitive products.

I would contend, as you see, that not only do regulations need to be changed because of changing circumstances, but also because they do not, and possibly never did, serve a purpose which was worth the price to the consumer. I have heard it argued by American actuaries that the success of the British could not happen in the United States. This seems to be based on an assumption that United States companies are more venal than British companies. Maybe so! But the British are very proud that they are descended from pirates. In my limited exposure to management in both countries, I do not see any evidence to support this rather negative view of ourselves and our companies.

It is, by the way, arguable that the basic laws covering behavior which is antisocial (that is misrepresentation, fraud, failure to disclose and so on) could be adequately applied to our business without having to write special insurance legislation on the subject. Now, just to avoid any misinterpretation of what I have said, I do not believe that the industry can be unsupervised. We hold billions of dollars in trust, and hence, we need a policeman to see that we behave. That authority, however, (and this is my real contention) could do a much better job if it were not weighed down with excessive, meaningless, counter-productive regulation to apply in detail every day. The major area of supervision should be financial. Here it would be more effective if the state could concentrate on competent actuarial and auditing staffs to review and analyze life company statements to pinpoint problems before they arise. The current time offers us the chance on political and economic grounds to unload our over-regulation albatross. I just wonder if our profession has the courage to lead in doing so.

MR. DONALD CODY: I am a consulting actuary. I am the Chairman of the Society's Committee on valuation related problems which has four task forces working hard in the area of solidity on solvency of life insurance companies in these very difficult times. You are familiar with one of the task forces, namely the Carl Ohman led C-3 Task Force which has to do with the changes in the interest, environment, disintermediation and intermediation. Mr. Richardson is a hard act to follow, but I do want to make some comments about the needs (as I perceive them) that the life insurance industry faces in this area of solidity and solvency. We are involved in a process which will bring the valuation actuary kicking and screaming into maturity. A valuation actuary, as Mr. Richardson has said, must necessarily take his opinion on the good sufficiency of reserves very, very seriously, and in particular, he must take into account the matching of liability and asset cash flows. I was reminded as I was listening to the story of one of our astronauts who was asked after he came back from the moon by a little old person: "Were not those tons of explosives frightening?" He said, "Of course they were frightening. Anybody that is not frightened by that situation does not understand the problem." I think the Baldwin-United situation is an unfortunate example of what we are talking about. There is a great apathy on the part of actuaries to be mature about their opinions on reserves. The reason is our history. Another reason is the fact that the Society of Actuaries has not done a proper job of analyzing the states' side of the situation that must be faced.

I think there is no doubt that as we proceed in this matter, it is going to be necessary for the NAIC to require the opinion of the valuation actuary to state that he has looked at the matching of assets and liability cash flows in his opinion. One problem is that it is impossible for most valuation actuaries to get the information they need to make this opinion. Now the only way they are going to get it from the investment officers, as a generality, is to make it a requirement. In other words, they cannot express an opinion unless they get that information. There has been a great deal of activity along this line. Robert Callahan has done magnificent work in New York in requiring annuity valuation actuaries to state that they have used, they have paid attention to, the assets and liability cash flow in their opinions if they are to use the most liberal level of interest rates that are permitted in the 1980 standard valuation law. There is another step being taken (and I think this came primarily from the California Department) that on indexed based universal life policies it is necessary for an actuary to provide an opinion that part of the plan of investment operations contains attention to liability and asset cash flow.

I think this ought to be extended to a lot of others generally, including GIC's and certainly SPDA's. It is quite important that the Society of Actuaries, at the top, require that the very considerable work of the C-3 Risk Task Force be put into a form which will allow all valuation actuaries to use it, whether they are consultants for small companies or actuaries of small companies or actuaries of large companies. This has not been done yet. As I say, there is an apathy on the part of American actuaries to undertake this responsibility. It requires a new area of knowledge, and we must do it. Whether or not we have detailed regulation, this is necessary. The insurance departments cannot regulate the solvency of companies without the valuation actuary undertaking this responsibility. There are a lot of people working in this area, but a lot more work has to be done. The NAIC at the proper time will have to take steps (and they are perfectly willing to take them) to require this opinion to cover these areas, and we need a great deal of help in doing this as fast as possible, because the situation is very, very explosive.

MR. RICHARDSON: I think that what we have just heard is terribly important for actuaries. I think that American actuaries generally are apathetic about this subject, and in the world in which we live, the whole subject of matching assets and liabilities is critical. I can assure you that every actuary in my firm gets lectured on this every time we have a meeting. I frankly think that our regulations, to which we have clung so dearly for too long, have led us indirectly into the Baldwin-United type of situation in two ways:

1. It has created that apathy on the part of valuation actuaries.
2. It has led us to believe that there is something sacred about guarantees. A guarantee is no better than how well you have matched it, and yet we do not seem to have that fully in mind.

That is what really is critical. Guarantees do not really mean a thing. I think one of the advantages of the British system (without all those requirements) is that they too have their Baldwin-United, except that it was a $100 million company instead of a $4 billion company, and it was six or seven of them, not one, but they did exactly that same thing, i.e., they gave guaranteed cash outs in a time when interest rates shifted by percentage points of three and four. You know you are setting yourself up to get beaten as soon as you do that. And that is something for which valuation actuaries should be responsible and should understand and should not permit to happen.

MR. ROBERT CALLAHAN: I am Chief of the Actuarial Valuation Bureau of the New York State Insurance Department. I have worked for the insurance department since April, 1951, with one year out to work for a company, and two years in the military service. I am a civil servant appointed from a Civil Service list. Over me there are officials appointed to serve at the pleasure of the Governor or Superintendent. Very frequently these appointed officials last for an average of four or five years. On the NAIC level, I understand that the average life of a state insurance commissioner is three years.

Those of us who are career employees do try to have our influence felt. Sometimes we are heard and somtimes we are not. A great deal is beyond our control. Frankly, I have looked upon the insurance industry as a self-regulating industry. This may seem odd to some people, but by and large, the insurance departments need to rely upon the expertise of the people in the industry. Both in New York State and on the NAIC level, there are industry actuarial advisory committees and committees consisting of other experts. These advisory committees come up with model laws and model regulations which in turn are modified to some extent and passed by the NAIC. There are some states that go into a little bit more regulation. New York is known as the state with the most regulation. At an earlier panel this morning, it was noted that many companies find ways around New York law and regulation (perhaps by staying outside of New York with the parent company, and setting up a subsidiary in New York). One of the forms of deregulation is to do away with state regulation and have federal regulation. This has been talked about for many years. In February of 1967, the outgoing Superintendent of Insurance of the State of New York, Henry Root Stern, Jr., said that you can no longer look in terms of five years for federal regulation, but rather three years. The Deputy Superintendent and General Council under Henry Root Stern and the First Deputy Superintendent of Insurance under his successor, Richard Stewart, was George Bernstein. George later became the first federal insurance regulator and is now in private practice. I call your attention to two recent editions of the National Underwriter of articles by George Bernstein on the unisex question. He wonders if all of this hullabaloo about unisex is not just a cover-up to have federal regulation replace state regulations.

One of the ways you can bring on federal regulation is for the states <u>not</u> to do their jobs. Another way to bring on federal regulation is for the states to do their job too well and have a great deal of difference of opinion among the various states. I am meeting for dinner tonight with Bill White, John Montgomery, Alan Lauer and, hopefully, Ted Becker, if he can get here, to iron out a common problem.

By Thursday of this week, the NAIC technical actuarial committee is meeting to discuss various problems, one of the foremost of which is the proposal for a blend of the 1980 CSO Tables to accommodate unisex (which I think could be a tremendous nightmare to administer and can even invoke some lawsuits).

Under self preservation, I should fight hard for state regulations. However, I have said repeatedly over the years that in theory I believe in federal regulation. In May of 1981, at a meeting of the Society of Actuaries in New York City, there was a panel on federal versus state regulation. One of the speakers, Rod Seiler, counsel for Allstate, stated that the industry has preferred to work with 50 monkeys rather than one King Kong. However, the 50 monkeys have been getting out of hand, and the industry might prefer one King Kong. Right after that, Rod went out to lunch with three monkeys from the state of New York.

I think over the years we have seen more and more regulation. I have often heard ERISA referred to as a full time employment act for actuaries. When we talk about self interest, we are not just talking about the self interest of the regulators, but there is a good number of people in the industry whose jobs depend upon state regulation. I think, frankly, that perhaps this unisex problem may give a tremendous impetus to federal regulation.

I frankly feel that a lot of the valuation laws are quite arbitrary. The insurance industry had wanted to present an image to the public that we have regulators out there looking after the public's interests and the solvency of the insurers. From a mechanical standpoint, the Bureau that I head checks the year end valuations of our domestic life insurers. I realize that for even a mechanical check we need to rely upon the integrity and the honesty of the actuaries that make the calculations we check. Just prior to the reorganization of our department in 1974, Superintendent Ben Schenck had suggested that the minimum reserves ought to be set at the GAAP level and that then the difference between the present net valuation reserves and the GAAP reserves could be kept as part of required surplus. I said to the Superintendent, "Do you want us to continue to do this work or not? If you do not want us to continue to do this work, then assign us elsewhere." He chose to have us continue to do the work.

We need to rely upon the actuarial opinion of the actuary as to the reserve adequacy and the solvency of the company. There is an actuarial opinion required for the life insurance company annual statement. That effectively puts upon the insurance company actuary the obligation to perform certain tests as to the solvency of the company, not just the adequacy of the net premium valuation reserves. We have required in New York (for the use of higher valuation interest rates for annuities and guaranteed interest contracts) that the actuary give us an opinion as to the matching of the assets and liabilities and the adequacy of the assets to support those reserve liabilities.

I understand that there are various industry actuarial technical groups currently working on what is called The 1990 Reserve Valuation Laws and that those 1990 Reserve Valuation Laws may rely more and more upon the actuary to select the appropriate assumptions, make necessary tests, and express an opinion as to the adequacy of present assets and future premiums to meet contractual obligation of the insurer.

MR. MICHAEL E. MATEJA: The idea of deregulation has an obvious appeal, but I think that complete deregulation is probably unrealistic. Thus, I like the idea of "selected deregulation" mentioned by Mr. Richardson. This conceptually could be accomplished to protect both the public interest and the interests of the industry.

I believe that meaningful deregulation will eventually put much greater burden squarely on the shoulders of the actuary. This burden is most obvious in the area of valuation as just described by Mr. Cody. A prerequisite to appropriate valuation is realistic risk analysis, and this is where I see the greatest weakness even in the present regulated environment.

Insurance is fundamentally a risk taking business, and it is essential that we understand the risks assumed in order to both price and reserve intelligently.

Risk analysis has received considerable attention within the Aetna in recent years, and the effort has produced realistic approaches to such new products as GIC's, SPDA's, Group Stop Loss, and Universal Life. I do not see sufficient evidence that actuaries in other companies are really understanding the risks they are assuming, particularly in the C-3 Risk area. This suggests that meaningful deregulation may not be possible until the actuarial profession clearly demonstrates both the ability and the commitment to understand and control the risks assumed by the industry.

MR. BRADFORD GILE: So far, the defenses of regulation I have heard seem to be solely aimed at financial regulation solvency of companies. The marketplace is a very effective regulator in itself, but it does not do the entire job. In the mid-1970's we have probably the best examples of problems that arise from lack of regulation in the form of individual deferred annuities. Around 1975, there were actually some companies that sold individual deferred annuities having cash surrender values of zero for as long as five years. It was this kind of thing that created the need for what is now the standard nonforfeiture law for individual deferred annuities. That law did not come out of a vacuum; it came out of a very real (not a perceived) need. I think those who believe there should be no regulation at all should have to spend, as a part of the continuing education requirements, three weeks in any one of the state insurance departments to see some of the nonsense that some companies will actually file (and presumably they expect to sell this stuff). I agree that there is far too much silly regulation. There are regulations to cover just about anything, and they really do not do anything at all except to waste some people's time. But on the other hand, I think there is a very definite need for a strong framework of regulation in the insurance industry.

MR. DAVLIN: Proponents of deregulation are not saying people will not make errors. As for the example you mentioned of a new product coming out with no cash values for five years, I would simply point out that a company can offer a higher return with such a feature, and the consumer has to judge the trade-offs between returns and liquidity.

MR. KENNETH FAIG: In this morning's Miami's newspaper, one of the salesmen who periodically call upon Dagwood Bumstead arrived on his doorstep and offered him a meteor insurance policy. Mr. Bumstead responded (apparently rather knowledgeable about meteors) that the chance was only one in a billion that his house would be struck by a meteor, so he did not think he needed it. The salesman said, "Well, that is why it only costs $10."

Most state insurance statutes, I believe, still include a provision regarding reasonableness of benefit in relationship to premium. Admittedly, the example I am citing is a laughable one, but in the past, of course, we have seen situations where various individuals have been convinced that they had an adequate program of health insurance, whereas in fact, they actually had a collection of very small benefits, all of them virtually a minimum risk. Therefore, I wanted to address the members of our panel who advocated the elimination of all policy regulation. The question as to whether this type of a statute is still necessary or prudent, or whether, in fact, the consumer is wiser than we might think, and the open market will eliminate need for it. I think the bewildering variety of products that we may see, even in the regulated framework, makes it very, very difficult today for an insurance consumer to shop in an absence of a competent, knowledgeable and honest agent, and those are some very strong assumptions. When a product is very simple and there is virtually no variation such as with a single premium immediate annuity paying a monthly income for life, a consumer can virtually shop by price if he has access to competent agents. But with the bewildering variety of products that are on the drawing board stage today, it seems that we are drawing back responsibility on the agent. After all, he is one of the principal professionals involved here, but there are bad apples, and I wonder if on account of those bad apples we may still need some regulation continuing in the disclosure policy level.

MR. WHITE: Our assigned topic was specifically deregulation of <u>life</u> insurance. Frankly, while I was putting together my discussion note I often wished that it were both life and <u>health</u> insurance. We could easily devote a session similar to this to the topic of regulating health insurance, and I sympathize with your interest. However, the question of the reasonableness of benefits in relation to premiums is an individual health insurance concern rather than a life insurance concern and, hence, not appropriate for today's discussion.

On the question of unscrupulous agents, there is a curious ambivalence among life insurance people--and I am sure other regulators present have seen this--who say: Regulate the competition, but leave me alone. For instance, Bob Callahan and Don Cody have referred to the New York regulation on actuarial certification. I recently read a memo from the actuary of one of our major life insurance companies concerning this. In one paragraph he is critical of the New York regulation (1) because it is "going to increase our operating expenses" and (2) because "as a greater and greater degree of professional judgment becomes permitted in the valuation process, we can expect that judgment to be exercised. . .to prolong the unjustified existence of carriers that should be regarded as insolvent".

MR. RALPH OLSON: Do you know of any valuation actuary who has given a qualified opinion when filing the annual statement, and if such a qualified opinion were given, what would the Insurance Department do?

MR. WHITE: I have never seen one. I am sure that Bob Callahan has examined more actuarial opinions and had more impact on actuarial opinions than we have in the New Jersey Department. Bob, can you respond to that?

MR. CALLAHAN: I am aware of only one situation, and in that particular situation, I believe that the insurer or fraternal society was then put in kind of a rehabilitation for awhile. They may be back on their own feet now.

MR. RICHARDSON: May I just suggest on that there would be a difference if the whole structure were different, i.e., if the actuaries were not relying on all the regulation that we have. I have seen actuaries who disagreed with the statement and made it very clear. In fact, I have seen actuaries that have disagreed with actions that their boards plan to take, and the boards did not take those actions, but this all happened in Britain, not in the United States.

MR. BURROWS: Now Fred, you commented at breakfast that the relationship with the valuation actuary in Britain is not to the board of directors, but to the government. Is that right?

MR. RICHARDSON: Yes, I think this is something about which actuaries should think. In the British system, where so much depends on the professional actuary, the appointment of a chief actuary for an insurance company requires the approval of the insurance department; and the firing of them also requires the approval of the insurance department. So that once you have appointed a chief actuary in a British insurance company, you do not lightly replace him.

He has protection and that is what it really boils down to. If he really has a professional position to take which is contrary to his company management, he can take it.

MR. BURROWS: I read the Hyman Report that was generated by the insurance industry in New York. But there was an absence, I thought a curious absence, of the policy forms question. That has been one that has bugged me particularly.

MR. DONALD SKOKAN: I have not heard any discussion about the anti-rebate laws that are currently in effect in this country. In an effort to broaden my perspective, I would like to direct some questions to the panel. Mr. White, from a view of a regulator, do you believe those are in the consumer's best interest? And then I would also like to have Mr. Richardson and Mr. Speed inform me really as to whether there are similar laws in Canada and the United Kingdom, and if not, how that is working.

MR. WHITE: You give me the opportunity to state something that I should have said at the outset. The views expressed here are my own and do not necessarily reflect those of my employer. Personally, I do not like the anti-rebate laws. I tend to view them as anti-competitive. Whole on the subject of competition, I should take issue with some of Mike Davlin's earlier statements on the benefits of competition as an alternative to regulation. In my discussion note I set down, for the first time, "White's Rule on Competition". It may be worth repeating: In an unregulated environment, the life insurer that will compete most successfully is the one with the least concern for its ability to deliver on its contractual commitments.

MR. SPEED: There is prohibition against rebating in Canada, but it is not a question that has come up very often. It is prohibited you cannot rebate any part of the premium that is quoted in the contract. It has not been a big issue.

MR. RICHARDSON: There is no such prohibition in Britain, and I cannot think of any good reason for it except that the agents thought it was a good idea. Probably the companies did too, but I cannot believe that the consumer thought it was a good idea.

MR. CODY: I am under the impression that anti-rebate laws do not prevent rebates. I think the basic question here is whether or not a rebate is a cost of doing business.

MR. DAVLIN: I had a discussion with one of my associates in Canada, and I asked if there was anybody doing insurance business on a fee for service basis. He said that as far as he was concerned, it was just a disguised form of rebating to be condemned. About five minutes later into the conversation he started telling me about these stock purchases he had made and what a good deal he got with this new negotiated commission arrangement. On White's Law, the most deregulated industry I can think of off hand is probably the electronics industry, and if anything, I am seeing companies offering better and better quality over time. I think life insurance companies have an incentive to preserve the capital value of the business. That is a valuable, marketable property right, and to say that they are going to recklessly price business with no concern to their abilities to meet their promises is unrealistic and unjustified.

MR. WHITE: I was going to make a suggestion in accordance with James C. H. Anderson who, in his paper on universal life, named his hypothetical company (the company that was going to be most successful in the sales of the universal life product) Cannibal Life. In terms of an example of White's rule on competition, I think the company would be called Bird-In-Hand United. Unfortunately, the mechanics of our business are such that the bottom line is written every quarter (or every calendar year), and there are very few bottom lines that develop twenty to thirty years into the future. We have the electronics industry successfully deregulated because there is a very short time between the purchase of the product and the delivery of the product. One of the points I tried to make in my discussion note is that the life insurance industry needs regulation because dollars are expended today for a product to be delivered often decades into the future.

MR. SPEED: There is a type of policy I just discovered within the last week or so in Canada where there is a basic premium and a policy fee, and the first year premium can either be two or three times the continuing premium at the agent's choice. In other words, the agent can establish the level of first year premium, and I really have not had time to think that one through. Technically, I guess it would not contravene the rebating laws, but it would be wrinkled.

MR. RICHARDSON: I think the point that Bill makes about the nature of our industry is really an important one. Of course, we are long term, and we make long term promises. With that I maintain (I agree philosophically with what Bill is saying) that the state regulation should concentrate on the actuarial and auditing function of companies, and the profession should concentrate on their responsility to see that we do not go out on the street and offer $20 bills for $10 bills. It is a great marketing ploy. You get a lot of $10 bills that way. But you also go bust in due course, and the worry that Bill has (and that I share and that everyone in this room shares, I hope) is that the desire for short term profits will make you ignore that. It will only make you ignore that if you do not have a professional actuary who has a professional responsibility to see that you do not ignore it. I think that is to where we really have to come back, it is the responsibility of the people in this room. I go back to the gentleman from the Aetna who mentioned (and, of course, Don Cody also mentioned) the risk factors, and I think that this is terribly important to the actuarial profession.

We always understood anti-selection. We have always known that you cannot go out and offer a million dollar contract to somebody without checking to see if they were dying of cancer, where they would opt against you. We have always understood that. What we seem to be having difficulty understanding is that in the investment area we are offering products today (and have been for years) in which we are giving him that option, at his option, some time in the future. We cannot even underwrite it. And that is the thing that we really have to come to grips with. I maintain very strongly that in today's economy the whole business of guaranteed cash out values is suicidal. Suicidal for our industry, and you just cannot do it, and regulators should understand that as well as the people in the company should. I am not arguing to get rid of regulation in order that we give away the house. I am saying that our existing regulation guarantees that we give away the house, and that is what we have to change. Our actuaries have to understand that that is the fundamental issue. You simply cannot say to somebody I guarantee that at your option any time in the future you can have one thousand dollars, because we may not have one thousand dollars to give to him.