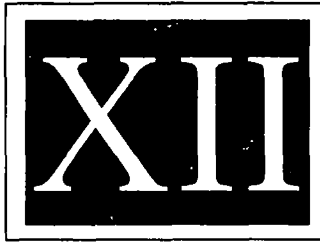

Appointed Actuaries at Risk?

Shirley Shao

Editor's Note: *This article is an excerpt from a report to the NAIC Life and Health Actuarial Task Force entitled "State Variations and Their Impact on Valuation."*

With the introduction of the appointed actuary concept, the new Standard Valuation Law (SVL) language and the Actuarial Opinion and Memorandum (AOM), compliance with each state's minimum standards, albeit in aggregate, is explicitly and clearly required. This means that the appointed actuary must certify that reserves meet the requirements of each state in which the insurer files an annual statement. Because reserve requirements differ by state, the actuary for a national insurer must compile, analyze and opine on 50 sets of valuation laws, regulations and procedures. This inefficient regulatory duplication of effort consumes considerable resources. The appointed actuary is personally liable for strict compliance with this difficult task.

This article intends to provide some background on how and when the state variation issues came about, why these issues present a challenge to the valuation actuary, what seems to be the current practice in dealing with these challenges, and how these issues can be addressed more effectively and efficiently in the future.

Background

Since its inception in the 1940s, the SVL has always had the following wording:

> ... In lieu of the valuation of the reserves herein required of any foreign or alien company, [the commissioner] may accept any valuation made, or assumed to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and for all valid legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. (Section 2 of the NAIC SVL)

The spirit of reciprocity (that is, acceptance of another state's valuation provided it will reciprocate) expressed in this language is clear. However, the wording on which state's "minimum standard" this state will accept is confusing and possibly in conflict with the reciprocity spirit. A technical reading of the SVL means that state A will accept state B's valuation only when that valuation is performed based on state A's minimum standard. This reading is inconsistent with reciprocity because states will only issue a certificate based on their own requirements, not on another state's. In practice, the reciprocity spirit had been applied and commonly accepted.

However, the 1990 version of the SVL, coupled with the AOM regulation (both quoted below), made the spirit of reciprocity no longer applicable. Instead, compliance with each state's minimum standards, albeit in aggregate, is required.

> Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts ... comply with applicable laws of this state. (Section 3 of the NAIC SVL)

Meet the requirements of the Insurance Law and regulation of the state of domicile and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed. (Section 8B(6)(c) of the NAIC AOM)

This new picture presents challenges to the actuaries who are now required to be familiar with the detailed requirements of all 50 states. In addition, the retroactive aspect of complying with requirements in all states further complicates matters. As each state adopts the SVL and AOM, nondomiciliary valuation actuaries discover that they now need to go through all the laws, regulations, bulletins and letters that existed up until this point. This search can go back as many as 20, 30, even 40 years.

This past spring, the NAIC Life and Health Actuarial Task Force (LHATF) assigned a working group to study the problems posed by variations in state requirements and to propose resolutions. The working group comprises Harold Phillips (California), Troy Pritchett (Utah), Donna Claire (Claire Thinking), and Shirley Shao (Prudential).

What Are the Challenges?

A survey of valuation actuaries revealed four questions that came up repeatedly:

- Is there any one, definitive source for uncovering variations?
- What are some of the variations uncovered?
- How do the costs and the benefits of the variations match up?
- Does anyone understand the risks being placed upon the appointed actuary?

Source of Information

How does a valuation actuary begin the task of complying with the aggregate minimum reserve requirement in all states where the company is licensed?

First, the valuation actuary would need to know the reserve requirements applicable for each product line in those states. Second, to the extent that one product line does not meet the minimum reserve requirement, a further understanding of that state's aggregation requirements (that is, whether aggregation across product lines is permitted) may be necessary.

In theory, to complete this task, the actuary should gather and thoroughly review all relevant valuation laws, regulations, bulletins, circular letters, guidelines, and so on in each state. This is likely to turn out to be very arduous, considering how difficult it is to interpret legislative language prescribed by the domiciliary state, not to mention other states.

As model laws and regulations are updated, this situation becomes more complicated because some states still have older versions on their books, while others have newer versions. And each state may have incorporated its own variations before adoption. Some of these states have indicated that they meant to adopt the new laws and regulations, but just have not had the time or resources to do so. In some instances, they waive the old requirements in private. It is difficult for the valuation actuary to ascertain some of these unwritten requirements, particularly in a nondomiciliary state in which the insurer may not have a direct relationship with the regulator. In other cases, some states have never adopted certain models, so there is no specific guidance at all.

Another area that presents problems is "tables approved by the commissioner" for various kinds of group coverage. While a company should have a very clear understanding of what tables its domiciliary state has approved, it is unlikely to be aware of the agreements other states have reached with their domestic companies.

While most valuation requirements are spelled out in the laws and regulations, other interpretations may have been established by less formal means such as letters, bulletins, or private communications.

In practice, instead of going through the laws and regulations directly, some actuaries have relied on various sources in which summaries are provided for ease of review. The most often cited resource is the *Life and Health Valuation Law Manual* published by the American Academy of Actuaries (AAA). But the manual qualifies that:

> The summaries have been provided to assist the actuary in identifying the differences in the valuation laws of various states. However, they are no substitute for a thorough review of the laws, regulations, bulletins and other correspondence of the states. ... The summaries included in the manual have been made from a source which itself may be subject to errors and the summaries themselves may be subject to errors.

The manual was reviewed by sampling a few requirements. Consider the following examples:

- Several states (for example, California, Ohio, Washington) require actuarial certifications for single-premium

deferred annuities. These certifications are required via bulletins and letters, not explicitly by law or regulation. The manual fails to note this requirement for two of the three states (California and Washington).

- Over the past few years, several states have adopted a version of the 1988 NAIC Model Minimum Reserve Standards for Individual and Group Health Insurance Contracts Regulation. (It's been revised three times—once in 1989 and twice in 1993.) A very helpful article written by Jeffrey Prescott in the May/June 1995 issue of *Contingencies* outlines the evolution of the model and some of the major state variations as they relate to group long-term disability reserves. Prescott's article presented, in table format, a summary of group LTD minimum standards for the 13 states that have adopted the regulation (shown on page 9 without the explanatory footnotes); contrast that with what was included in the manual.

While Prescott's article lists 13 states that have adopted the regulation, the manual has overlooked a few. Furthermore, for those states included in the manual, it is unclear which version of the model was adopted, much less the specific variations. Lastly, the effective dates for California in Prescott's article were based on an earlier draft and are no longer correct. This, perhaps, further strengthens the point that it is very difficult to research and ascertain state variations.

In both situations, should actuaries solely rely on the manual, they would likely fall short in fulfilling the valuation requirements in these states.

A number of other sources are also available to the actuary—the ACLI, actuarial consulting firms, the Red Books from the National Insurance Law Service (NILS), INSource CD-ROM from NILS, and so on. But similar questions should be raised: Can the sources be relied upon completely? Are the updates frequent enough? Do the sources provide any summary or translation from legal jargon?

It seems pretty clear that actuaries have to undertake time-consuming, expensive and often inconclusive research to meet extraterritorial requirements in the current environment.

What Variations?

Partly due to the lack of a good, definitive source of information (short of reading each state's laws and regulations, and so on), valuation actuaries may not necessarily be working from the same list of state variances. This discrepancy is exacerbated when the actuaries have different interpretations of the variances and different attitudes towards how they should comply. The following list of variances illustrates the complexities of today's compliance world, but by no means is intended to be a conclusive list.

Effective Dates

Even when the valuation requirements are identical from state to state, they may be enacted in different years. The manual suggests that the actuary should address "the dates on which different eras of mortality tables and interest rates were adopted."

One example is that some states adopted the dynamic maximum valuation interest rates for annuities as early as 1981, while others as late as 1985 (for example, Arkansas and Oklahoma). This could lead to dramatically different minimum standards for annuities issued during this four year period depending upon which enactment date is applicable.

In practice, some actuaries (including regulators) seem to be comfortable complying with the effective dates stipulated by the state of domicile only, while complying with the other aspects of the valuation requirements from other states. However, the SVL and AOM imply that compliance with the year of adoption would be required.

					Life & Health Valuation Law Manual (including January 1995 updates)	
Prescott's Article						
State	**Effective Date of Regulation**	**Effect Date of 87 CGDT**	**Optional Use of Experience Years 3–5**	**Valuation Interest Rate**	**Type of Business**	**Comments**
California	1992	1993	Yes	SPIA less 100 bp	Accident & Health	Does not specify morbidity tables and sets a minimum reserve of unearned gross premium
Colorado	1993	1993	Yes	SPIA less 100 bp	—	—
Connecticut	1993	1994	No	SPIA less 100 bp	—	—
Idaho	1993	1994	No	Whole Life	Accident & Health	Not less than gross unearned premium
Maine	1991	1993	Yes	SPIA less 100 bp	Accident & Health	Similar to new model
Michigan	1994	All Claims	Yes	SPIA less 100 bp	Health Insurance	Newer model adopted and subsequently revised
North Carolina	1994	1994	Yes	SPIA less 100 bp	• Accident & Health • Individual and Group Health Insurance	Reserve requirements similar to model Newer NAIC model (adopted December 1988 and subsequently revised)
Pennsylvania	1993	1993	Yes	SPIA less 100 bp	Accident & Health	Valuation requirement is similar to model
South Carolina	1991	1992	No	Whole Life	Accident & Health	Similar to current model
Texas	1992	1994	No	SPIA less 100 bp	Accident & Health	Similar to new model. Contract reserve requirement applies to business issued or assumed after the effective date.
Virginia	1994	1994	Yes	SPIA less 100 bp	• Accident & Health • Health Insurance	Note: Hearing scheduled for 10/21/93 to revise Reg. 15 to newest NAIC Model (with 85 CIDA). The scheduled effective date is 1/1/94. (case No. INS 930382). The Reg. will remain numbered 15. Newer NAIC model adopted 1988 and subsequently revised
Washington	1992	1993	No	Life	—	—
Wisconsin	1992	1992	No	Whole Life	Accident & Health	Similar to new model

Curtate versus Continuous CARVM

The NAIC model requires reserves to be calculated based on the maximum of the present values of benefits (net of surrender charges) as of the end of each policy year (for example, curtate CARVM). Several states have taken a different interpretation of CARVM—reserves calculated using the maximum present values of benefits on any day (for example, continuous CARVM). Some states prefer the continuous approach method for all annuities, while others refer only to the approach for certain types of annuities, such as those in which the policyholder can withdraw funds without incurring a surrender penalty for a limited period after the policy anniversary.

Universal Life Regulation

California's universal life regulation for policies issued after 1991 is similar to the NAIC model, except that the valuation rate cannot exceed the guaranteed crediting rate in the contract. Alternatively, companies may opt to hold a reserve equal to the mean of the cash value and the fund value. Depending upon the contract

design and the relationship of the fund value to the Guaranteed Minimum Fund, this method may produce greater reserves than the model regulation. However, California does not consider the interest rate restriction as a variation, but rather the correct interpretation of the NAIC model.

Variable Life Insurance (VLI) Regulation

Many states still have the 1983 version of the VLI regulation in which the minimum guaranteed death benefits reserve for flexible premium plans is calculated quite differently from the 1989 version of the model. A handful of states have adopted the newer version and several states still do not have any VLI regulation.

Somewhat related, on the variable annuity side—while the NAIC provides little guidance on how the minimum guaranteed death benefits should be reserved, a letter from Connecticut last year has sent companies scrambling to comply.

Valuation of Life Insurance Policies Regulation (Previously Known as Guideline XXX)

Most differences between the model regulation and New York's *Regulation 147* should be resolved if New York amends its regulation. However, California may enforce valuation requirements (*Bulletin #74–11*) for policies with nonlevel premiums, which could require reserve levels significantly different from those required in *Guideline XXX*. Also, in light of recent publicity and the industry's concern, several insurance departments are grappling with whether this regulation is necessary and whether it benefits their consumers.

Minimum Reserve Standards for Individual Group and Health Insurance Regulation

As mentioned earlier, Prescott's *Contingencies* article does an excellent job outlining some of the more significant group LTD variances in the states that have adopted the model regulation. These variances include the effective date of 87 CGDT, the optional use of experience in years 3–5 (with approval), and the use of whole life interest rates or SPIA interest rates less 100 basis points.

Reinsurance

It is unclear whether the appointed actuary is opining that *gross* reserves meet minimum standards or whether reserves *net of reinsurance* do. One insurer strengthened a block of reserves so that his gross reserves met minimum standards, only to cede that business to a reinsurer. However, if the actuary need only opine on *net* reserves, another question arises. If the reinsurer is authorized in the state of domicile, the ceding company used to be able to take credit for the portion of reserve that is ceded. Nowadays, however, if the reinsurer is not authorized in all 50 states, then how does the ceding valuation actuary opine that the net reserve is at least as great as the minimum requirements of all states?

Aggregation Rules

Different interpretations of the word "aggregate" exist when taken in the context of the AOM (" ... at least as great as the minimum aggregate amounts required by the state which this statement is filed"). Some valuation actuaries believe that it means aggregate at the company level, while others believe that the particular state's aggregation rules should be followed.

For example, the State of New York requires that reserves be aggregated by certain major lines of business. Do valuation actuaries from foreign companies have to comply? If so, how many other states have defined, formally or informally, different aggregation requirements?

As a related issue, some clauses of the SVL allow for categories to be established by the commissioner. Again, how many states have established restrictive categories?

AOM Language/Table Presentation

When adopting the AOM, many states have deviated from the model in terms of prescribed language, reserve table format, deadlines for extensions, and so on. Does a separate opinion/memorandum need to be written for each state to capture these variations?

Costs versus Benefits

The costs, for the industry and states, associated with compliance with the formula reserves in *all* states are substantial and sometimes prohibitive. These costs will ultimately need to be passed on to the policyholders and

contractholders. But whether these costs are justifiable to the policyholders given the marginal benefits derived from the whole exercise is the question.

For states, while it is theoretically possible for each state to audit, review and enforce compliance for every licensed insurance company, the cost may well be disproportionate to the benefit. With budget cuts and changing administrations, regulators are often faced with too few resources to adequately review every company. It might be more beneficial for the policyholders if reserves underwent a thorough review by the domiciliary regulators.

For insurance companies, substantial resources are necessary to become familiar with the laws, regulations, circular letters, bulletins, and so on in the domiciliary state and to keep the knowledge up-to-date. To repeat this effort in all other licensed states becomes unbearable and prohibitive. Resources are also needed to perform the reserve computations that will ensure compliance in each state, not just the domicilary state, which means multiple sets of calculations and sometimes a large systems effort. Because the valuation actuaries and their staffs are already inundated with completing the asset adequacy analysis, it can be particularly burdensome to require this same staff to spend even more time on state variations. Some companies simply do not have the resources to do adequate research, comparisons and computations. This creates a compliance exposure for the appointed actuaries.

In addition to the resources needed, the reserves essentially need to be established on the most stringent formula basis of all licensed states. This level of reserves seems to be exceedingly conservative, raising the question of whether this requirement is too excessive for insurers in today's competitive financial world. Some insurers cannot afford to establish reserves at this level, forcing the actuaries to file multiple and/or qualified actuarial opinions.

This affordability issue is further compounded by the retroactive aspect of the SVL and AOM. If actuaries find a requirement that is substantially different from their own state's, they may need to strengthen that block of business–even if it has been in force for years. At the time the block was priced and issued, the actuaries probably had only worried about their own state's requirements, not about all the other states.

From the insurer's view, the benefits derived from such an exercise are not obvious, particularly given that the valuation actuary is responsible for performing asset adequacy testing to assure that formula reserves are indeed sufficient to meet the company's promises. In fact, some actuaries argue that the "this state" requirement is inconsistent with the valuation actuary movement. This requirement also seems to be contradictory to the NAIC accreditation effort, that is, to ensure that key laws and regulations for each accredited state are "substantially similar."

From the regulator's view, however, the existing state requirements are beneficial. The extraterritorial aspect of the law allows regulators to exercise control over a nondomiciliary insurer–not only on policies and contracts sold within his state, but on business issued in other states as well. Because the level of reserves, as a result of these requirements, tends to be high, the regulators can be comfortable that the reserves are duly conservative.

Appointed Actuaries at Risk

Appointed/valuation actuaries are being asked to undertake the task of first understanding the laws, regulations, bulletins, letters, and so on, of each state in which their company is licensed, and then computing reserves based on the most stringent of these requirements. The above sections give some insight into the challenges actuaries have to face: lack of a good source of information, numerous variations and written/unwritten interpretations, and scarce human and financial resources to accomplish such an impractical task, and so on.

Despite the impracticality of this task, appointed actuaries are required to take both professional and personal risks for any associated noncompliance. When approached, some states admitted that they do not have the resources to review foreign licensed states and that "best effort" from the appointed actuaries will suffice if they do perform a review in the future. However, it is not clear what the definition of "best effort" is, and such wording appears in neither the SVL nor the AOM. Moreover, the regulators do not like to see "qualified" actuarial opinions which contain exculpatory language to reflect "best effort" (but not 100% guaranteed) compliance. To make matters worse, today's trend is towards increasing, not decreasing, regulatory scrutiny, which subjects the appointed actuaries to greater risk.

At the same time, the American Academy of Actuaries is requiring the appointed/valuation actuaries to comply with the Actuarial Standards of Practice, in addition to the laws and regulations. The Actuarial

Board for Counseling and Discipline was also established to address any noncompliance issues.

Pressure on the appointed actuaries is coming from all directions. And the actuarial profession is still grappling with what all of this means in terms of professional and personal liability.

What Seems To Be the Practice?

The industry's practice when dealing with state variations seems to vary quite a bit due to differences in:

- Understanding and interpreting the laws, regulations, and so on
- Cost and resource implications
- Attitude towards compliance.

Appointed actuaries can approach their opinions in one of the following ways.

One Opinion

The AOM Section 8B(6)(c) language is used for all states. This opinion can be derived by calculating reserves on the strongest of the reserve bases in all states. This can be performed by product lines or company as an aggregate. This approach is the strongest with the greatest potential for reserve redundancy.

Two Opinions

The AOM language is used for those states that have adopted the newer SVL (30 states effective for the 1994 annual statement), and the less onerous opinion language contained in the instructions to the Annual Statements is used for those states that have not adopted the SVL. The valuation actuary may opine that the minimum valuation requirements of the state of domicile are met without any opinion (for example, no calculation of reserve) on the valuation requirements in non-SVL states.

Multiple Opinions

Reserves can be calculated on several bases and different versions of the Annual Statement filed in different states. For example, many insurers found themselves needing to file a separate opinion for New York.

Qualified Opinion

The actuary may submit a "qualified" opinion. The degree of the qualification may vary from the use of exculpatory language like "to the best of my knowledge," to explicitly stating that the reserves do not meet a particular state's valuation requirements.

Using "to the best of my knowledge" is probably the most prevalent practice, in conjunction with one, two or multiple opinions.

What Are Possible Resolutions?

A good resolution should attempt to accomplish the following:

- Gives comfort to regulators that reasonable reserve levels are being established
- Allows insurers to comply with those reserve requirements with confidence on what the standards are
- Keeps the cost of regulatory oversight and cost of compliance within reasonable bounds
- Lets the valuation actuary concept work
- Lets the accreditation concept work.

The following alternative resolutions have been suggested by either regulators or the industry, whose pros and cons are analyzed below.

Resolution A: Each state would be permitted to rely upon the valuation standards of the insurer's domiciliary state, provided its laws and regulations are "substantially similar." If the domiciliary state's requirements are not substantially similar, the valuation standards would be based on the NAIC model, with some agreed-upon set of effective dates.

This resolution is consistent with the "reciprocity" intent of the SVL Section 2 language. Furthermore, the NAIC model regulation requiring annual audited financial reports uses the same philosophy, which exempts foreign/alien insurers from filing audited financial reports in another state if the requirements in the domiciliary states are deemed to be "substantially similar." Finally, this resolution is very consistent with the current accreditation effort, which attempts to make the key laws and regulations of every accredited state "substantially similar."

This resolution would simplify the states' compliance activities. While it is theoretically possible for each state to audit or review reserve compliance for every licensed insurance company, the cost would probably be prohibitive. With this resolution, states'

resources could be focused on a more thorough review of domestic companies' valuations.

There would be no need for insurers to research, compute and establish the most stringent reserves to comply with variations in all states. Instead, they would be able to rely on their domicile state's requirements and the valuation actuary's responsibility to perform reserve adequacy tests.

One significant drawback of this resolution is that states would be conceding some of their valuation regulatory authority over foreign companies. In addition, the process of defining what is "substantially similar" can be contentious. One alternative is to substitute "substantial similar" with "accredited" so that each state can rely on the valuation performed by the domiciliary state if it is accredited. The drawback with this alternative is that some states are not accredited. This can possibly be resolved by using the NAIC model with some agreed-upon effective dates, but this will obviously put pressure on those states to become accredited.

Resolution B: Each state would be permitted to rely on the valuation standards of the insurer's domiciliary state, provided that the state certification identified the differences between that valuation and the NAIC models.

This resolution is very similar to the first proposed resolution, with many of the same pros and cons. It would, however, clearly and explicitly identify differences between the domiciliary state's requirements and the NAIC models. The accounting profession is currently undertaking a similar effort in the Annual Statement (*AICPA SOP 94–1,* "Inquiries of State Insurance Regulators" and Proposed SOP "Disclosures of Certain Matters in Financial Statements of Insurance Enterprises").

Resolution C: Each state would allow the use of the effective dates of the domiciliary states, while continuing to require compliance with other aspects of each state's valuation requirements.

This is a partial resolution, as compared to the previous two resolutions, which will eliminate some of the research and computation effort due to various effective dates. In practice, some valuation actuaries are already working under this assumption and some states seem to endorse it.

The drawback is that it addresses only one aspect of state variations—effective dates. Also, states would concede their right to control effective dates for foreign companies. This solution will not work neatly when the state of domicile has not adopted any version of a particular regulation.

Resolution D: Each state would require foreign and alien insurers to meet their minimum reserve standards prospectively only, not retrospectively.

This resolution would eliminate the retroactive aspect of the current requirements. As a result, for those policies issued prior to the effective date of AOM and newer SVL, the insurer would be required only to meet its own state's minimum standards. However, those policies and contracts issued after the adoption of the newer SVL and AOM would be required to meet the aggregate reserve requirements in all licensed states.

This resolution allows pricing actuaries to take the requirements of all licensed states into consideration and price the product accordingly going forward. For existing business, which probably was not priced based on valuation requirements in all licensed states, this grandfathering eliminates any mispricing or valuation problems.

For new business, this resolution will not be very beneficial because it continues to have all drawbacks associated with the state variation problem. In addition, the effective dates of the SVL will be a complication.

Resolution E: Each state would require compliance with its requirements only to the extent such requirements were documented in a central repository system.

A central repository system would be established to summarize each state's variations from the NAIC model laws, regulations, as well as any relevant circular letters, bulletins, interpretations, and guidelines. States would be responsible for keeping the system up-to-date (or at least verifying the accuracy of their information), and the valuation actuary would be required to comply with the NAIC models and those variations listed in the repository.

The system would establish a central source of information with clearly noted variations to help the states ascertain what valuation standards the actuaries are opining upon. It will help actuaries by reducing the burden of researching through multiple sources and by clearly identifying their compliance responsibilities.

The drawback of this system is that states will need to devote resources to comparing laws, regulations, and so on, against the NAIC models and to file variances with the repository. One state already admitted that this will be a very difficult task. Also, states may have different definitions of what constitutes a variance. The insurers still need to understand and comply with

variations which may remain difficult. This difficulty may be further increased with "eleventh hour" updates from the states.

One open issue is who will be "in charge" of this system. The American Academy of Actuaries is not very interested in this type of responsibility, partly due to its experience in putting the manual together in the past and its difficulties in getting the regulators to reply to requests for updated state information. Another big issue is whether this system can really supersede the laws, regulations, and so on.

All these alternative resolutions may require amendments to the NAIC AOM (and maybe the SVL), which will then have to be adopted by each state. Because a "substantially similar" AOM is identified as a key criterion for accreditation, it is expected that most states will review the amended NAIC model promptly and will likely follow the model as well. The states, of course, retain their right to modify the NAIC model if they wish. The timing is also good because the AOM is currently being reviewed by the LHATF for other purposes. Because changes to the AOM are likely to result from these other initiatives, it should be easier to have the AOM reviewed for the state variations issue as well.

Nevertheless, amending the AOM (and the SVL) is still likely to be time-consuming, and a temporary resolution will be necessary to reduce the risk placed on appointed actuaries. An Actuarial Guideline incorporating some of the resolutions mentioned above may be one possible "quick fix" solution to serious compliance problems. The drawbacks are that an Actuarial Guideline can be, at best, an interim solution and that the NAIC AOM (and possibly the SVL) will still need to be amended and adopted by the states. Furthermore, an Actuarial Guideline's ability to interpret or deviate from laws and regulations is subject to debate.

What's Next?

The working group presented a report (on which this article is based) to the NAIC LHATF at the September meeting. The LHATF recognized the impracticality of following 50 sets of rules and agreed that a resolution is necessary. In fact, the LHATF suggested that both long-term solutions (involving amendments to the NAIC AOM) and short-term solutions (possibly an Actuarial Guideline) be researched. Although no specific direction was given on which of the above resolutions is preferred, the consensus at the meeting seemed to be that relying on the domiciliary state's requirements would be acceptable as long as states retain some flexibility in setting extraterritorial requirements. The LHATF also thought that the states should clearly specify the extraterritorial requirements and the NAIC, with the help of the states, should take responsibility for maintaining a complete and easy-to-use list of extraterritorial requirements.

The working group would like to report to the LHATF at the December meeting on specific recommendations, which would ideally incorporate your thoughts and suggestions. The working group also encourages you to raise this issue with your regulators, colleagues, and other actuaries, thus increasing awareness of this issue and its consequences. Only with your support will the working group be able to move forward with resolutions that are sound for the actuarial profession.