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Recorder: DOUGLAS C. KOLSRUD

Mr. Douglas C. Kolsrud: Larry Gorski, who has been a life actuary with the Illinois Department of Insurance since 1976, is an associate member of the Society and also a member of the American Academy of Actuaries (AAA). He is very active in NAIC projects, such as the Invested Asset Working Group, the Mandatory Securities Valuation Reserve (MSVR) Study Group, and the Life and Health Actuarial Task Force. His department responsibilities and activities include reviewing actuarial opinions and supporting memorandums, developing an investment activity monitoring system, and reviewing corporate transactions.

Mr. Larry M. Gorski: I was asked to discuss what took place at an NAIC meeting that was held at the Swan Hotel. It was a late scheduled meeting. It had nothing to do with financial reporting issues, but some people get a little skittish when they hear about NAIC meetings taking place without much notice. The meeting was devoted strictly to discussing the development of the new nonforfeiture law for life insurance. It is a continuing saga that goes back almost as long as I have been with the Illinois Insurance Department, which is 20 years. The meeting was a followup to the receipt of the report from the AAA Task Force on Nonforfeitures. That report was delivered at the meeting early in September and reviewed again at the meeting in Anchorage, Alaska. That was our first chance to get into some discussion on some of the nuts and bolts issues. There were about eight or nine items that were heavily discussed.

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Almost everyone is at least generally familiar with the Academy report and its change in direction, moving away from a fixed guaranteed minimum floor for nonforfeiture values to a more open model in which the primary responsibility will be put on the company to develop a plan for providing nonforfeiture values, and the actuary will be responsible for determining compliance with that plan. One of the key issues that was discussed was guaranteed minimum values. I will use the complementing idea and refer to it as the dual regulation approach.

When we finished the meeting, the regulators there felt that a dual approach made sense, wherein a company would have the option to take a specific policy form and decide upfront whether it is designed to meet the requirements of the existing law or the requirements of the new law. This is a dual regulatory approach. There was not complete comfort in this idea, but this seems to be the direction we are moving.

Another major issue had to do with the filing of the plan. The plan is intended to be a rather detailed document developed by the company dealing with the issue as to how nonforfeiture values are to emerge under the contract. The general view is that the plan would be filed with either the states or through some kind of central depository mechanism. However, the plan would not be subject to approval.

The next issue had to do with the plan summary. The plan summary is a document that is going to be given to a policyholder, and it is to inform the policyholder as to how values will emerge, how experience assumptions will change, etc. That document will also be filed with the states, except those states that have approval authority over policy forms, etc., and in those cases it will be filed and subject to being approved by those states. This is an attempt to fit in the requirements of the plan summary with whatever requirements exist for other documents.

Other issues discussed were the details of that plan summary. I have been one of the advocates of a rather detailed plan summary. The plan summary is in the description of the “deal” between the company and the policyholder. I feel that it should be a rather complete description of the deal. Other people have different views. We were leaning towards a comprehensive description of the plan and plan summary.

Another issue discussed was the relationship between the nonforfeiture law and its illustration regulation. One of the ideas that was thrown on the table is a plan that is very broad and nonspecific. A company would be allowed only to give illustrations based on a very short time horizon. There would be a linkage between the length of policy illustrations and the specificity of the plan and plan summary that is given to policyholders.

One of the questions that came up in discussion is, what kind of timetable are we on? I spent five or six years working on the traditional model investment law, and it became apparent to me that unless a project of such immense magnitude is completed in a short time frame—a year, or a year and a half—the chances of ever finishing that project are almost nil. You have changes in the membership of the working group, the NAIC, and the regulatory group. You have changes in administration with different philosophies as to regulation, which makes the completion of such a broad-based project almost impossible. Unless that project is done in the next year or year and a half, I would say it is not going to get done, because it is going to be a different framework, different environment and the window of opportunity will be lost.

Mr. Douglas A. Eckley: Are you paying attention to the buyers and to the ability of policyholders to understand these documents? The reason I ask is, in my opinion, right now, many policyholders do not understand what they are buying.

Mr. Gorski: The discussions so far have been at a very high level dealing with basic principles. There has not been any discussion of the specifics of the plan or plan summary which will go to the policyholders. These are high-level discussions concerning principles. When we get to the time of putting pencil to paper, I am sure that is going to be considered. I am sure that the industry will point out every chance they have that the document we are developing is not understandable. I do not think your issue will be overlooked. It may not be answered the way you would like it to be answered, but it will not be overlooked.

Mr. Charles S. Linn: One of the topics that came up was the question of the plan summary and whether it was going to be a part of the contract from the standpoint of the legal issues. I wondered if you discussed that anymore?

Mr. Gorski: It did come up again. The whole issue of whether the plan or the plan summary would be part of the contract deals with the current policy provision known as the entire contract provision. In order to make the plan summary in some sense enforceable, it has to be referenced or incorporated within the contract. I think we all recognize the issue—how this is going to be accomplished is still anyone's guess.

We will move on to some real issues for financial reporting. I would like to give a very brief status report on regulation XXX for those who are not acquainted with what took place in Illinois. Some time late in August, Illinois adopted regulation XXX. The unique feature is the effective date language. We adopted the regulation with an effective date that basically says the regulation will become effective in Illinois if and when states representing 51% of the U.S. population adopt the regulation. Our purpose was to give a clear signal to everyone that, (1) we believe in Regulation XXX, and (2) we recognize the validity of the argument that the industry had made relative to a level playing field. We are encouraging states through our action to adopt a regulation, but to adopt it with a uniform effective date.

Some of the typical questions that I have been asked about this approach are, will New York count towards adopting XXX? The answer to that question is yes. Will California count to the test? My answer to that is based on the way things currently stand, I do not believe that California's approach to reserves for term insurance counts towards our test. My understanding of California's approach is that they view regulation XXX as a safe harbor. One can demonstrate that a lower level of reserves meets their minimum standard through a gross premium valuation. I would not consider their approach equivalent or similar to regulation XXX. They do not count towards the 51% test. The other two states that come up are Florida and Texas, and we are still evaluating what they are doing to see if they count towards the test. Another question that comes up is are we going to count ourselves? The answer to that is yes.

I did receive two to three phone calls from other states that, up until now, have been classified as still considering regulation XXX. These states all indicated that they thought we did a very reasonable thing and they plan to follow suit. Our action is generating, from a regulatory perspective, the desired result, and that is the adoption of XXX, but with a common or uniform effective date.

Mr. Keith J. Dubas: I have a two-prong question. As we reach the threshold, will you send out some sort of bells and whistles, this is in place, or if this dies out over a period of time and no one gets on board, is there going to be recision or anything like that?

Mr. Gorski: I do not foresee a recision. Again, I go back to the idea that if it is not adopted within two or three years, it will simply die. Whether we take a formal action or not, I am not sure what we will do then. The first part of your question is yes, I do intend to let everyone know with ample lead time whether the threshold has been met. The way our regulation is worded is that it will become effective January 1 after that threshold is crossed. I suspect every year around July to do a survey and find out where states are on XXX and then let everyone know around August what the results of that survey are. That is our game plan right now.

There is another session, XXX Status Report, (see session 119D "XXX Status Report") which is a debate. I am one of the debaters. Mark Oberhellman is the other debater. We have been assigned six or seven questions to address. For those who are not familiar with Mark Oberhellman, Mark had sent a couple of interesting letters to *The National Underwriter* on the issue of XXX. He should have some interesting things to say about it.

The next issue is directly related to the valuation actuary. There is an AAA task force on state variations. It is headed by Shirley Shao. It has been charged to deal with a couple of specific issues that have arisen since the amendment to the valuation law was adopted in 1990. There are two elements in the amendment that almost everyone is dissatisfied with. One dealt with the change from the old style opinion to the Section 7 opinion. The old style opinion, which dealt essentially with formula reserves, did have the notion of good and sufficient in there. While it is not a Section 8 or adequacy analysis style opinion, it did bring into play some evaluation on the part of the actuary as to the goodness and sufficiency of reserves relative to the company's ability to meet its obligations. In going from pre-1990 to post-1990, that good and sufficiency idea was dropped from Section 7 opinions.

The other issue, which is of more concern to the professional valuation actuary, is the change in requirement from opining strictly on reserves meeting the requirements of the state of domicile, versus the requirement that the actuary opines on the reserves meeting the requirements of the state of domicile, and in addition, meet, in the aggregate, the reserve requirements of the state of filing. It is the state of domicile versus state of filing issue. Shirley's task force was charged to look at both of those issues. One recommendation of the task force was to eliminate the state of filing requirement from the actuarial opinion and to devise a framework that would provide adequate information to the regulation.

At the September 1996 meeting of the NAIC, the report was turned over to the NAIC Life and Health Actuarial Task Force. We received the report and then it became our project. With respect to the first issue, that being the elimination of the Section 7 actuarial opinion, it caused quite a bit of discussion between the regulators and representatives of the industry. Small companies were concerned over the cost implications of eliminating a Section 7 opinion. Some medium to large companies had something to say about that also. In the end, as the project changed hands from a professional actuarial project to a regulatory project, the idea of eliminating the Section 7 opinion was dropped. We were no longer pushing for the elimination of Section 7 opinion. What we did instead was charge the Academy task force headed by Shirley to consider modifications to the exemption test.

For those not familiar with the valuation framework, the current framework says all companies have to do a Section 8 opinion, but there are exemptions granted in certain cases. Basically it is dependent on the size of the company. Small companies are exempted if certain financial ratios are passed. Those financial ratios that are in a current regulation are somewhat deficient. They focus on the amount of annuity reserves, the total assets, and junk bonds. Frankly, things that do not really, in a direct sense, connect with interest rate risks, are the basis for the Section 8 asset adequacy analysis opinion. The group was charged to recommend modifications to those exemption tests.

I would like to jump back to the state of filing versus state of domicile issue. The report that the Academy task force presented to the NAIC recommended that the standard valuation law and opinion memorandum regulation be modified to allow the regulator to accept an opinion that opines on reserves meeting the requirements of the state of domicile. It will not require the state of filing to accept such an opinion, it simply allows them to do it. Clearly that implies a major shift in responsibility. No longer will the valuation actuary need to be responsible for understanding the state valuation laws in 50 states, the District of Columbia, and other areas, such as Guam. That responsibility will shift from the valuation actuary to the regulatory actuary. If you are sitting in my shoes, the decision I have to make is if I get an actuarial opinion that says the reserves of this company meet the requirements of the State of Utah, is that sufficient for me to accept that opinion? Am I comfortable with the requirements in Utah so that I can say that while there are differences, the requirements of Utah are generally as strong as Illinois. Under this framework, I will have significantly more responsibilities.

In order to allow me to discharge those responsibilities, the Academy task force recommended the development of a central repository. The repository would be the place in which regulators from all the states would submit descriptions of their regulatory framework for reserves and then allow us to make some comparisons between the states in an efficient fashion. I will have on record a complete description of the valuation requirements of the other states. The Academy task force recommended the concept of this central repository. It sounds good on paper, but there are a lot of practical issues that need to be ironed out in order to make that idea go. First, who is the central repository. Clearly, people think of the NAIC as being the natural organization to handle that task. The NAIC said if they are going to handle that task, are we going to have some funds to do that? Also what responsibilities will be placed on the NAIC? Are they going to have to audit the accuracy of the submissions? Do they have to make sure that submissions are in? These issues are being ironed out right now.

The approach the Academy task force is taking is that it is developing a template that will elicit responses to questions in three general areas with respect to about 25 different lines of business. The first section will be general questions dealing with the mortality tables to be used, the interest rates, the valuation method, and the dates in which those different choices became effective. Then there will be a section on interpretations and variations between models and what the state is actually using. Last, there will be the applicability of actuarial guidelines. We are talking about 25 lines of business with a template that could go up to maybe 50 or 60 line items in some cases. It is a daunting task not only filling out these templates, but developing them in the first place. Again, that is what the task force is doing right now.

The kinds of responses that someone would put into that template are an indication for each position and/or valuation issue of a safe harbor practice (a desired but not required practice), whether an issue has been studied, a practice that is prohibited, or an officially adopted position.

The whole process will begin with the state insurance department filling out the template, maybe with assistance from a company in that particular state that has a high profile, but in the end, the state has to sign off on the response, so it will be the state's views as to what the valuation requirements are for that particular state. This is what I consider a major project. The time scale we are looking at is to have this idea ready by year-end 1998. There will be a great deal of upfront work and upfront expenses.

Mr. Kerry A. Krantz: I just wanted to add a couple of things since I am on that committee as well. I think there has been one suggestion about the Section 7 opinion made by Sheldon Summers. He said that if a company does not do a Section 8 opinion, then the state might require a state of filing as opposed to a state of domicile. The opinion was that would apply to small companies, and therefore, they may not be in a lot of states and therefore, it may not be as cumbersome to report to those states. Each state would have the option. If some state simply wanted to accept the state of domicile, then they could do that.

Mr. Gorski: Concerning the Section 7 exemption test, there is another working group under the Academy task force that is looking at modifying the exemption test for Section 7 opinions. There are about five or six different ideas floating around as to how those exemption tests could be improved to get the job done. One idea would be to have a test based on collateralized mortgage obligations (CMOs), another test based on derivative instruments and yet another test based on zero-coupon bonds. There are three or four tests that would be looking at different asset classes and trying to incorporate that into the exemption process. There are also a few tests that are being considered that deal with product lines. One test would deal with equity-indexed products, both equity-indexed annuities and life insurance. If a company had a certain level of reserves in that area, they would have to do a Section 8 asset adequacy analysis opinion. Similarly, if a small company had a significant holding in zero-coupon bonds, it would have to do a Section 8 opinion.

The idea is to develop tests that are more related to C–3 risk or interest rate risk that would become triggers when a smaller company has to do an asset adequacy analysis style opinion.

If you have been following my comments in these last five or six tests, one of the issues is that the statements, for the most part, do not capture the kind of statutory financial information we are considering for these tests. There is nothing that deals with zero-coupon bonds. You cannot simply say all CMOs are the same. There are some CMOs that are more volatile than other CMOs. Somehow we would have to incorporate some kind of measure of volatility for derivative instruments. While Schedule DB has been improved immensely, there are still things that need to be done to be able to incorporate a test based on derivative instruments. There is no identification of equity-indexed products, and so there would have to be some work done to the statement to provide the information to use these tests and then even with that being accomplished, we still have to set threshold levels as to when the test would kick in.

In the same area that I feel the exemption tests are inadequate, I also feel that the C–3 component of risk-based capital is an inadequate measure of C–3 risk. For those who are not familiar with risk-based capital, basically there is an identification of risk exposures in the C–1 area or asset default, C–2 or pricing, and C–3, interest rate risks. The way the risk-based capital format works now, you simply take the reserves for different lines of business and apply a factor to them and that becomes your risk-based capital for C–3 risk. If the company has not filed an unqualified Section 8 actuarial opinion, the risk-based capital requirement is bumped up somewhat. It is an objective test with a factor times reserves. Clearly that approach is inadequate. It does not take into account the interplay between assets and liability cash flows.

There is another Academy task force dealing with risk-based capital and that group has formed a working group to work with regulators to improve the methodology with respect to the C–3 risk quantification. They issued a status report at our last meeting and the basic idea is that the risk-based capital requirements for C–3 risk will be integrated with the work of a valuation actuary. The valuation actuary does a significant amount of projections of asset and liability cash flows for purposes of the opinion. That work should not be forgotten when it comes to risk-based capital. Basically the idea is that, to the extent that reserves are deemed to be conservative or very conservative, your risk-based capital would move in the other direction. Strong reserves would imply less risk-based capital, weak reserves would imply greater risk-based capital. There will be an inverse relationship there. There are many details that need to be worked out. This is the basic idea.

The report issued by the Academy goes on to identify certain kinds of business for which this type of analysis will be required. For instance, some guaranteed investment contract (GIC) business, maybe structured settlements, or accumulation business over lines of business would be where this higher level testing for risk-based capital purposes would be required. On the other hand, there will be other lines of business for which this testing would be optional, for the most part, unless some gross indicators would be met. Let’s say you sell a universal life product and generally you would not have to do this significantly more complex level of testing for risk-based capital purposes unless the assets supporting that line of business were of either high duration or large or negative convexity.

This is a project that is going to be very complex. It is going to take a great deal of commitment both from the profession and the regulatory community. As it stands right now, at the NAIC Life Risk-Based Capital working group, there is not 100% commitment to the idea. There is a substantial number of nonactuaries on that working group, and while they understand and appreciate C–1 risk, the risk of asset default, they are probably less concerned, and less knowledgeable about interest rate risks.

They think there is too much work with not enough benefit out of it. On the other hand, the actuarial members of the working group feel that it is something that is very important. That is the status report on that project.

I mentioned equity-indexed annuities. This area is getting more attention from the regulators both at the NAIC level and at the state level. It is on the agenda for the Life Health Actuarial Task Force starting with our December 1996 meeting. The questions are, (1) what are the formula reserves, and (2) how will asset adequacy analysis impact this area? There is also a series of questions with respect to marketing material. At a bottom line level, it seems any company who is marketing equity-indexed products, whether it be a large company or a small company, needs to do an asset adequacy analysis style opinion, at least for that line of business. This may cause some problems for a professional valuation actuary.

Over the last four or five years while I have been reviewing memorandums, valuation actuaries have either assigned equities to surplus or done what I think is a poor job with respect to modeling of equity cash flows. I suspect when we deal with equity-indexed products, the supporting assets are going to be a combination of fixed-income securities and certain derivative instruments, possibly options or futures. This is another area where the valuation actuary has not exhibited a great deal of enthusiasm or skill. It is going to be interesting to see what comes out of this project. In Illinois, we were planning on having a meeting early in November 1996. We have invited representatives of 10–12 companies with products in the market. We have a good mix of companies that are in the market right now and we are going to discuss with them regulations dealing with formula reserves, asset adequacy analysis, and marketing material.

I cannot be any more definitive on what the formula reserve requirements are going to be, because like everyone else, I do not think we know yet. I would tend to think that, at least for a first blush, we should be conservative and be setting up account values as opposed to cash values. That is simply a gut reaction because of my experience with companies and their investment strategies and sometimes the deficiencies in the strategies.

Derivative instruments are another area where the NAIC has been very active over the last several years. We have made tremendous improvements to Schedule DB. Schedule DB is the schedule which deals with the reporting of derivative instruments. Schedule DB was developed from the standpoint of companies using derivatives strictly for hedging purposes. With the advent of the prudent person model investment law and even the pigeon hole version of the model investment law, there is a much greater push by companies to use derivatives for replication purposes. When I use the phrase replication, I am referring to a transaction in which a company holds a cash-market instrument, let’s say a high-quality bond, and transforms that high-quality bond into a junk bond. It will hold the bond, it will swap out the coupons on the high-quality bond and get the total rate of return on a junk bond or a junk-bond portfolio. That transaction is probably illegal in most states. It is not permitted by the pigeon hole version of the model investment law, and it will not be permitted under the prudent person law until there is an NAIC framework in place to deal with replication transactions.

We are developing a framework that will, in effect, use the characteristics of that replicated unit, the combination of the high-grade corporate and the swap transaction, and assign a risk-based capital to that combined unit. There are asset value reserve (AVR) besides risk-based capital considerations. There are reporting considerations. Do you report each component of the transaction separately or do you report them as a replicated unit? There will be accounting implications and there will be implications for the valuation actuary. If the company is viewing a transaction as a replicated unit, the valuation actuary will presumably have to then model that replicated unit for asset adequacy analysis. As I said before, the modeling of derivative instruments has not been one of the strong points of the valuation actuary.

The last item I will be talking about is synthetic GICs. It is probably not of interest to most people, but there are at least a few companies that have been and still are offering synthetic GICs. There is an NAIC working group that is dedicated to issues related to synthetic GICs. A discussion paper was released at the Anchorage meeting. It dealt with all the issues except reserving. We will be getting into reserving issues within that regulation, and then that regulation will be turned over to the Life and Health Actuarial Task Force for their comments on the reserving components of that regulation.

Mr. Robert H. Dreyer: I have an observation and a question. With respect to the entire contract issue, I would suggest we might look at it from this point of view. With the entire contract wording the way it exists now, the policyholder would not have recourse through the courts, but could still come to the insurance department and get their recourse that way, because the plan would be on file with the insurance department and the insurance departments could take blanket action against the company for that product. My question is, you referred to the possibility of using higher risk-based capital requirements for companies that did not file Section 8. I can understand your concern with this and agree that it is not appropriate, but if the risk-based capital is of value, could this not be turned around and could the risk-based capital level of a company be one of the factors used in exempting smaller companies from the Section 8 opinion?

Mr. Gorski: The problem with that idea is it is somewhat circular. Right now I do not believe that risk-based capital is a total measure of a company's exposure to all risks including interest rate risks. To use risk-based capital, which I feel is defective with respect to interest-based risk, as a test for exempting companies from doing a more sophisticated analysis seems to be circular. That is the problem I have with this suggestion. Risk-based capital is good, but it is not the be-all and end-all in financial risk evaluation of a company, and when it comes to interest rate risk, I think it does a poor job. I would not want to use risk-based capital as a way of exempting a company from Section 8 actuarial opinion.

From the Floor: I would expect that it would have more validity than some of the tests that are there now, like ratio of annuity reserves to assets and things like that. It takes more things into account than the kind of tests we have now.

Mr. Gorski: I would agree with you that it is a better test than what exists for the Section 7 exemption test; on the other hand, it seems we should be getting to the real drivers of interest-rate risk and that is volatile CMOs, derivatives not used for hedging purposes, zero-coupon bonds of long duration, and some product lines. To me those are much more indicative of potential problems. The problem I see with my idea is a lot of that information is not captured in the annual statement right now, so we would have to deal with that problem, but it gets to the root of the problem better than using risk-based capital as a current test.

I have a question for you. Can you give me some indication as to the size of your company and assets?

From the Floor: Assets on a GAAP basis are between $600–700 million. We are licensed in Illinois, but do not have any sales in Illinois.

Mr. Gorski: What I was leading up to is that I assumed that you represented a small company, and I was going to ask you whether you have any problems with doing an asset adequacy opinion for a company of a small size, but you are not in that size category.

From the Floor: No. Could you give us a preview, in terms of the content and emphasis of communications from your department this year?

Mr. Gorski: It has not been completely thought through yet, but it is going to reiterate what I said about regulation XXX. That is a big issue. It is going to deal with equity indexed annuities. It will probably talk about derivative instruments again. I am sure it is going to touch on modeling of mortgages. Over the last year, I have seen many insurers much more interested in investing in mortgages. We have been following that closely and so there will be some comments on that. Other than those items, you will have to wait and see.

Mr. James W. Pilgrim: Listening to the discussion and all the proposed changes in regulation and compliance, when the individuals either in the regulatory roles or in the company roles acting on these committees consider the changes, what consideration is given, if any, to the additional cost of compliance, both on the part of the regulatory authorities and on the part of the companies?

Mr. Gorski: My answer would actually be based on what we are doing with the state of filing versus state of domicile issue and a central depository. That whole discussion is driven by one issue and that is cost to companies. It seems to many of us that the current system is very inefficient where it makes every company responsible for understanding and keeping track of the regulatory requirements in up to 50 states. In fact, we are listening to company concerns over cost and we are shifting a tremendous amount of burden and responsibility to the regulatory actuary. Why would I want to take on all this additional responsibility with no hope for increase in budget unless we felt that there was going to be both a positive impact to companies and also to policyholders? That is something that clearly should point to the recognition by regulators of company expenses and company costs.

On other issues, for instance, the Section 7 exemption test or the C–3 component of the risk-based capital, one of the important considerations is going to be materiality considerations. If a company is a small company that happens to be writing a nominal amount of business in one of the lines of business in which this additional testing is going to be required, there will be an exemption. It will not meet the materiality threshold. I have to say that we are very cognizant of company expenses. Maybe it is on our minds more so now than ever before.

Mr. Armand M. de Palo: I know not all companies believe the failure to pass XXX is a good thing. At least in the Guardian's point of view, the failure of the states to adopt XXX is what is causing a nonlevel playing field and forcing more companies into lowering reserves by using the unitary method. More companies are designing universal life products with secondary no lapse premium guarantees which are drastically lower than what the otherwise nondeficient premium would be. If this continues, the real question is, are the states by default adopting cash-flow testing as the sole basis of reserves based on whatever assumptions the actuary in that particular company feels is reasonable? If this is the direction we are going, I strongly suggest that you eliminate these companies from the guarantee association and have one reserve standard for those companies which choose to hold a statutory minimum reserve and another standard for companies which wish to hold reserves based on the actions of their particular actuary. You are putting many companies at risk of losing sales by aggressive pricing of one company, with the great fear that down the road these same companies are going to be the ones that have held the reserve standards high and are going to pick up the pieces of aggressive pricing of other companies. It is not good for the consumer to not hold the reserves. The political stance that it is good for the consumer that reserves are not held, just will not hold the test of time. I hope the regulators understand that they are doing harm. I understand the political process that you are being lobbied again and again in each state to not pass XXX. If three years from now you conclude that you cannot get XXX through, this industry will have a serious question as to whether we are holding proper reserves. Each company is going to have to address that question differently, but the guarantee association should not be the safety net. I would like your opinion on this.

Mr. Gorski: Much of what you said I completely agree with. I do not think states have completely understood the issue because of the technicalities. This is a highly technical issue, and it is very easy to persuade some states based on some exaggerated, overblown, highly publicized articles. One of the things that is baffling to me is, that it is quite possible, two or three years from now that everyone is going to have regulation XXX in place through the codification process. You have states on one hand that are very adamant against XXX as it stands now, but are highly supportive of the codification process. I had a very difficult time in Illinois with our own upper management to get as far as I did with XXX. I felt we were always on the cutting edge of trying to get XXX adopted outside of New York, and things were going along quite smoothly until just a few weeks within the cut-off date for comments on the second reading of the regulation and then things sort of fell apart and we had to do what we did. I did receive calls from a couple states, and I think things are on track now for adoption of XXX.

From the Floor: For whatever it is worth, there are companies that do not want to see XXX go away. In particular, in New York, while nondomicile companies have been trying to lobby New York state for the repeal of 147 or to have it put aside, the domicile companies want to retain it. As pressure gets greater and greater and as more creative products are brought to market, there is a growing group of companies that are not in favor of XXX being deferred. I think the regulators have to hear both sides, and hopefully we are going to see more companies step forward until their regulators pass XXX. I hope it is sooner instead of later and I hope it is before this industry faces some serious problems down the road.

Mr. Krantz: I want to state the position that the Florida regulator is in. Due to the standard valuation law in Florida, XXX will require a change to the standard valuation law by the legislature. It cannot be adopted strictly as a regulation, and because of that, if anyone is interested in promoting it, they will have to deal with the legislators of our state and not simply with the regulators.

Mr. Brian Todd Cornish: I am not quite up to speed on the state of domicile versus the state of filing issue. I assume that the issue means that if this idea is passed and that our filing is approved in my home state, Minnesota, then other states which have adopted this form could generally accept it. The second question is, how does that address issues where a state that we file in, for example, California or Florida, has a different requirement, for example, for universal life reserves than we do? How would that issue be addressed in that we would still have to file a separate statement with them?

Mr. Gorski: The issue deals only with valuation. It is limited to that. If the current requirement of state of filing has changed to state of domicile, it will give the state of filing the ability to accept an actuarial opinion that says that reserves on your statement meet the requirements of the state of domicile. Let's say your state of domicile is California and you make a filing in Illinois. I will be legally able to accept that actuarial opinion. I may decide that it does not meet our requirements and you will have to file another opinion, but I will have the ability to say yes it does meet our requirements. If I make that determination, everything is done. The important thing is that even if I say that the opinion does not meet our requirements, in no way does that reflect on an inadequate job being done by you. It is simply a follow-up request. In terms of annual statement filings, if I accept your reserves and your opinion, then the statement you file in California would be filed in Illinois.