Comments of the Center for Economic Justice

to the NAIC IUL Illustration (A) Subgroup

Amending the Effective Date Provision of AG 49

July 31, 2016

The Center for Economic Justice submits the following comments regarding the effective date provisions of AG 49.

When originally adopted by LATF, AG 49 staggered implementation by phasing in the requirements for the "illustrated scale" and the "disciplined scale," effective September 15, 2015, and, then later, requirements for policy loan illustrations and additional standards, effective March 1, 2016. The actuarial guideline applies the requirements to policies sold on or after these dates and not to policies in-force on or after these dates.

CEJ urges the effective date provisions be changed deleting the word "sold" as follows:

1. Effective Date
   This Actuarial Guideline shall be effective for all new business and in force life insurance illustrations on or after September 1, 2016.~~as follows:~~

   i. ~~Sections 4 and 5 shall be effective for all new business and in force life insurance illustrations on policies sold on or after September 1, 2015.~~

   ii. ~~Sections 6 and 7 shall be effective for all new business and in force life insurance illustrations on policies sold on or after March 1, 2016.~~

Since March 1, 2016 has come and gone, there is no longer a need for two effective dates and setting the date into the near future will reduce confusion without harming consumer protection.

The effect of this change is that all illustrations produced after the effective dates will be subject to the consumer protections of AG 49. Under the current language, illustrations produced after the effective dates for policies sold prior to the effective date are not subject to the guideline. There are several compelling reasons for this change.

1. ***Consistent consumer protections for all IUL illustrations after the effective dates.*** Under the current language some consumers receiving new illustrations will receive protection against inflated and misleading crediting rates while other consumers will not. For example, assume two consumers with the identical IUL policy. One purchased the policy ("was sold") on July 1, 2015 and the other purchase the policy on October 1, 2015. Both consumers request an update illustration in July 2016. The first consumer continues to get an illustration without the AG 49 protections while the second consumer does receive the protection – even though both are receiving an illustration of the same policy on the same day. This is unfair, deceptive and misleading to the first consumer.

2. ***The proposed change is not a retroactive change to the policy.*** The proposed change has no impact on illustrations already provided to the consumer – only to illustrations provided after the proposed change to remove "sold" is enacted.

3. ***The proposed change will reduce illustration expenses for insurers.*** Under the current guideline, the insurer must maintain at least two methods of calculating the crediting rates used in the illustrations and the documentation to support the two or more methods. Under the proposed change, the insurer will only need to maintain the AG-49 compliant method of calculating crediting rates and associated documentation for that one method.

4. ***The proposed change will simplify regulatory oversight of illustration crediting rates.*** Under the current guideline, market conduct regulators will need to examine multiple crediting calculation methods for illustrations after the effective date because the crediting calculations will vary on current illustrations depending on when the policy was sold. The proposed change will greatly simplify market regulation review of compliance with AG 49.

5. ***The proposed change will simplify the implementation of the recent changes to AG 49 regarding multiple scales within a policy.*** The changes to AG 49, adopted this year, did not include any effective date changes to AG 49 or effective dates specific to the changed provisions. The result is that AG 49 will provide guidance applicable to policies sold between 2015 and 2016, but before the guidance was adopted in 2016. Our proposed changes to the effective date provision eliminate this issue because AG 49 will apply – in its entirety – to new illustrations regardless of the sold-by date.

During an earlier meeting in which the effective date issue was discussed, an industry representative suggested, among other things, that LATF should consider the impact on insurer solvency resulting from policyholder behavior significantly different than originally estimated if the proposed change in the effective date provision was enacted. The comment was startling, as it implied that illustrations under AG 49 would be so radically different for policyholders sold IUL policies before the effective date that large numbers of policyholders would now drop their policies. If this is true, the consumer protection afforded by the proposed change is hugely important to allow consumers to make informed decisions based on reasonable and not misleading information.