

NAIC ANNOUNCES PUBLIC HEARING OF CAPITAL AND SURPLUS RELIEF WORKING GROUP

January 5, 2009

To Our Clients and Friends:

On January 2, 2009 the Executive Committee and the plenary of the National Association of Insurance Commissioners (the “NAIC”) met via conference call to discuss the findings of the Capital and Surplus Relief (EX) Working Group (the “Working Group”) regarding the nine-part proposal submitted to the NAIC by the American Council of Life Insurers in November 2008 (the “Proposal”). The Executive Committee formed the Working Group to consider the Proposal, which suggested certain actions the NAIC could take to provide relief from conservative reserve and risk-based capital standards applicable to life insurers, life insurance policies and annuity contracts. No action regarding the Proposal was taken at the January 2nd meeting and it is unclear whether any pieces of the Proposal could be implemented in time to be reflected in insurers’ 2008 annual statutory financial statements.

The January 2nd meeting was informational in nature and there was no opportunity for comment by interested parties. The Working Group summarized the Proposal and the recommendations previously made to the Working Group by other NAIC working groups and task forces and outlined the timeline expected over the coming weeks. The Proposal is divided into four categories: (1) life insurance reserves; (2) annuity reserves and risk-based capital; (3) risk-based capital for investments; and (4) accounting for deferred tax assets. Prior to the 2008 Winter National Meeting the Working Group requested input from other NAIC working groups and task forces as to whether various aspects of the Proposal are consistent with current regulatory objectives. For additional detail regarding the Proposal and the recommendations made to the Working Group by other NAIC working groups and task forces, please see our client update dated December 12, 2008, available at www.debevoise.com. Additionally, the Working Group reiterated that there was not unanimous support among the states regarding some of the recommendations contained in the Proposal.

A public hearing of the Working Group will be held on January 27, 2009 in Washington D.C. to allow for public comment and additional discussion. Written comments will be accepted by the NAIC through January 23, 2009. No official action is expected to be taken at the public hearing, though the Working Group expects to have reached a final decision by early February. Executive Committee and plenary action would follow. Additional NAIC action may be required following adoption of certain aspects of the Proposal by the

Executive Committee and/or plenary, for example to implement recommendations in the Accounting Practices and Procedures Manual.

The Working Group discussed the need to thoroughly evaluate the Proposal and considered whether certain pieces of the Proposal could be implemented on a state-by-state basis via permitted practices. However, it was noted that permitted practices are not available in all states and therefore this approach could lead to a lack of uniformity.

If you would like more information on these or other topics of interest, please contact the undersigned or any insurance industry lawyer at Debevoise & Plimpton LLP.

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