The American Consumer Institute
Center for Citizen Research

April 8, 2024

Philip Barlow
Chair, Risk-Based Capital and Investment Risk and Evaluation Working Group
National Association of Insurance Commissioners

Re: Oliver Wyman Study on Residual Tranches and Interests

Dear Mr. Barlow:

The American Consumer Institute is honored to present the National Association of Insurance Commissioners (NAIC) with comments on its proposal to raise the risk-based capital (RBC) charge for residual tranches and interests of asset-backed securities (ABS) from 30 percent to 45 percent for life insurance companies. The effects of limiting financial options on life insurance policyholders are of great concern to us, particularly because the proposal will limit the availability and affordability of such a vital resource.

Life insurance provides financial solace for those who hold these policies and can be integral in supporting families after the passing of a household's primary breadwinner. The difference in feelings of financial security between those with and without life insurance is stark.[1] While nearly 70 percent of those with life insurance feel financially secure, less than half of those without insurance can say the same.

Furthermore, after just six months, nearly half of Americans say they feel the financial burden of losing their household's primary wage earner. Life insurance helps to provide families with the cushion they need to stave off the inevitable financial burdens of a loss. Even if a policy is never used, the peace of mind that it grants is still immeasurable to working families.

There is little debate that life insurance policies are beneficial. However, rules that limit investment opportunities for life insurance policyholders threaten to limit availability and affordability. Similar to the proposal from the Federal Reserve to impose "Basel Endgame"[2] requirements on banks, this sharp increase in RBC charges would

[1] Michael Jones, "Life Insurance Statistics and Industry Trends to Know in 2023," Annuity, January 24, 2024, https://www.annuity.org/life-insurance/statistics/#:~:text=About%252050%2525%2520of%2520Americans%2520do,compared%2520to%252046%2525%2520of%2520women.

[2] "Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity," Federal Register, September 18, 2023,

functionally limit the investments into residual tranches and ultimately hinder ABS.[3] These investments are high-performing and can offer life insurance holders greater access to financial markets. High RBC charges amount to cash-on-hand requirements, limiting investment capital which earns interest, and helping life insurers cover customers.

The report by Oliver Wyman on the risk of losses to residual tranches and interest of ABS under various stress tests does not lend support for a 45 percent RBC charge.[4] Instead, the Wyman report indicates that a 30 percent RBC charge would best satisfy risk, making the proposed 45 percent charge unsubstantiated by testing. For the NAIC to continue implementing the current proposal would essentially create an arbitrary RBC charge that would unnecessarily limit life insurance policyholders' access to financial options.

The NAIC should not implement this rule change. At a minimum, the NAIC should hold off on rule implementation for at least a year and conduct further risk-based testing to substantiate the increase in RBC charges to 45 percent, or the charge should be set at 30 percent as the Wyman report concludes. Anything else would endanger Americans' access to valuable financial tools which could be the difference between having or not having access to health insurance.

Based on our analysis of the proposal, we conclude that consumers would be harmed in two major ways. First, the increase in RBC charges would drive the costs of life insurance and annuities up because the charge would artificially reduce insurer investment returns. As a result, insurers would have to pass this cost on to consumers. This is happening at the very time that more Americans are facing retirement insecurity and need to protect their families.

Second, the increase in RBC charges would hinder the origination of lending to consumers, because many originators of consumer loans require securitization to finance such lending. Thus, making these securitization structures/investments less attractive by jacking up the risk charge would significantly reduce demand and make consumer loans more expensive.

Considering life insurance provides benefits both in peace of mind and financial ease following losses, it is incumbent upon policymakers to not unnecessarily limit its

https://www.federalregister.gov/documents/2023/09/18/2023-19200/regulatory-capital-rule-large-banking-organizations-and-banking-organizations-with-significant.

[3] Bill Hulse, "How New Banking Rules Might Harm Your Business," U.S. Chamber of Commerce, November 6, 2023, https://www.uschamber.com/finance/how-new-banking-rules-might-harm-your-business#:~:text=As%20a%20whole%2C%20increasing%20capital,by%20more%20than%2020%20percent.

[4] "Oliver Wyman Residual Tranche Report," Alternative Credit Council, February 26, 2024, https://content.naic.org/sites/default/files/inline-files/Oliver%20Wyman%20Residual%20Tranche%20Report.pdf.

availability through the implementation of RBC charges that are higher than what is supported through stress testing.

If you have any questions, we can be reached on [redacted]

Respectfully submitted,

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