Information and Guidance on
Estimating Potential Guaranty Association Assessments
Relating to
Executive Life Insurance Company of New York ("ELNY")

(as of January 22, 2009)

Background

Executive Life Insurance Company of New York (ELNY), a New York domestic life insurer, was placed into rehabilitation on April 23, 1991 by the New York Superintendent of Insurance. A plan of rehabilitation was approved by the New York court supervising the rehabilitation proceedings in 1992, and since then the rehabilitation has been administered by the New York Liquidation Bureau (NYLB), on behalf of the Superintendent, as statutory rehabilitator. The vast majority of the value of ELNY's remaining contract liabilities are non-surrenderable structured settlement annuities (SSAs). The installment payments that are owed on these annuities extend well into the second half of this century, and, as is typical of SSAs, such payments are not level, but rather irregular and targeted to key life events of the payees (e.g., college matriculation, retirement).

ELNY remains in rehabilitation and an order of liquidation with a finding of insolvency has not yet been sought or granted. The NYLB is attempting to develop a plan that would result in additional funding being raised to help secure the benefits of ELNY's policyholders. In mid-2007, the targeted amount was $650 million, which was envisioned to be raised from guaranty associations ($500 million) and certain SSA owners ($150 million). There are a number of variables that have not been finalized which can have a material impact on any assessment estimate. These include, but are not limited to: the makeup of ELNY's existing investment portfolio and assumed rates of return; possible participation and contribution to the plan by additional outside parties; and the level of participation by the state life and health insurance guaranty associations.

No guaranty association has yet to enter into a legally binding commitment to participate in any plan or contribute any level of funding. As a result, at this time, we cannot confirm which particular state guaranty associations will participate in any plan. It is estimated, however, that if a plan similar to the one that is being considered is adopted, the majority of the guaranty associations' costs (e.g., 66-75%), will likely be borne by New York's guaranty associations. Currently, it is estimated that 20-30 guaranty associations may eventually participate in a final plan once it is completed. In most states, assessments by guaranty associations relating to annuities are primarily associated with the allocated annuity account. New York has two separate guaranty associations: the assessment base for its "new" guaranty association is primarily associated with its life insurance, annuity and funding agreement account; while the assessment base for its "old" guaranty association is based upon admitted assets.

Guidance on Estimating a Company's Potential Guaranty Association Assessment

In general, estimating a company's pro-rata share of a particular state's guaranty association's insolvency-related assessment can be accomplished by first determining its proportion of assessable premiums and then applying that factor to the total estimated assessment required in that state. The proportion of assessable premiums can be based on annual premium data filed by member companies on the *Life, Health & Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit* and the *Adjustments to the Life, Health and Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit*. You can refer to these exhibits of your company's annual statement to obtain your company's premium data - neither NOLHGA nor the guaranty associations provide company-specific premium information. State-wide premiums, however, are included on NOLHGA's website. Since guaranty association assessment amounts are determined on a state by state basis, the most accurate method to perform these calculations would also be on a state by state basis.

As noted above, as New York's guaranty association system is somewhat different than those of other states, and since it is likely to be responsible for a very large portion of total ELNY guaranty association assessments, special attention should be paid to estimating company level assessment amounts in that state.

The following are some, but not all, of the methods that may be considered in estimating your company's pro-rata share of a guaranty association's insolvency-related assessment. (NOTE: These methods are not meant to be definitive accounting guidelines in determining your company's share of assessment or your company's assessment accruals, and are only mentioned as suggested guidance.)

- Determine your company's assessable premium on a state level, per account basis and determine your company's share of total assessable premiums per account in each state. Apply each state's factor to each applicable guaranty association assessment. This method most likely is the most accurate in determining a company's pro-rata share of the costs; however, it may also be the most complex to establish.

- Determine your company's premium on a state level basis and divide by the state totals of all companies' premiums. Apply this factor to the guaranty association's amount estimates on a per state basis. This method generally ignores the type of market a company writes in and is somewhat less complicated than the above approach.

- Determine your company's assessable premium on a country-wide, per account basis and divide by country-wide, per account totals for all companies. Apply this factor to the above estimates on a country-wide, per account basis. This method is most likely the least accurate method; however, it is also probably the easiest to calculate.

In addition, the following points may be taken into consideration when developing your cost estimates:

- Develop your company's premium basis under the above methods based on particular state provisions (i.e., 3-year average prior to year of insolvency, 1-year prior to year of assessment, etc.). A summary of state provisions is contained in the cost information provided on NOLHGA's website; however, this information has not been verified with the guaranty associations.

- Gather previously-paid assessment information from your payment records as this would provide the most accurate payment information. However, an alternative approach is to apply the ratios developed above to assessment information provided to estimate amounts that have been previously paid.

- Incorporate applicable premium tax offset provisions into above methods, subject to recoverability testing. Reflect tax recoveries as an asset as opposed to netting them against the accrual estimate if required. Tax offset information is contained in the cost information provided on NOLHGA's website.

Premium data, state premium tax offset provisions etc. may be obtained from NOLHGA's website under the "Facts and Figures - Insolvency Cost Files". Access the file labeled "Report" in any given year.

Accounting Guidelines on Liability Recognition

Beginning in 2001, insurance companies have been required to establish a liability and expense for guaranty association assessments when certain conditions are met (e.g., a loss is probable and can be reasonably estimated). Statement of Statutory Accounting Principle ("SSAP") No. 35 – *Accounting for Guaranty Fund and Other Assessments* and Statement of Position ("SOP") 97-3 – *Accounting by Insurance and Other Enterprises for Guaranty Fund and Certain Other Insurance-Related Assessments* provide guidance for establishing these liabilities. The accompanying chart summarizes some of the key items of these statements; however, you should carefully review each statement to determine how they apply to your company.

Accounting Guidelines on Liability Recognition				
Item	**NAIC SSAP No. 35**	**¶**	**AICPA SOP 97-3**	**¶**
Effective Date	1/1/2001		Fiscal year beginning after 12/15/98. Early Adoption encouraged	.28
When to Recognize Liability	When **both** of the following conditions are met: 1) Insolvency has occurred a) Insolvency occurs when a reporting entity meets the state of domicile's statutory definition of an insolvent entity. • declared financially insolvent by a court of competent jurisdiction, and/or • final order of liquidation. 2) Amount of loss/assessment can be reasonably estimated a) Company's share of ultimate loss expected from the insolvency, using best available information about market share, premiums by state and by line of business.	4 4.a. 6 4.b. 7	When all of the following conditions are met: 1) An assessment has been imposed or information available prior to the issuance of the financial statements indicates it is probable that an assessment will be imposed a) Premium-based assessments are presumed probable when a formal determination of insolvency occurs 2) The event obligating the entity to pay has occurred a) The event that obligates the entity is writing the premiums (commonly referred to as collected premium for life/annuity/health companies) or becoming obligated to write or renew the premiums on which the assessment is expected to be based 3) The amount of the assessment can be reasonably estimated	.10 .10 a. .11 .10 b. .13 10 c.
How to Report and Measure Loss Range of Liability	Accrue best estimate within range OR use midpoint of range. Report liability gross of any asset (see Asset Recognition section below)	8 9	Accrue best estimate within range OR use minimum amount in range. Report the liability separately from any asset established for tax offsets Discounting of the gross liability to present value is allowed at an appropriate interest rate when the aggregate amount of the obligation and the amount and timing of the cash payments are fixed or reliably determinable.	.15 .19 .22 .21
Asset Recognition: Receivable for premium tax offset/policy surcharge estimates	Admitted asset if it is probable that the offset or surcharge will be realized.	9	When it is probable that a paid or accrued assessment will result in an amount recoverable, recognize an asset in an amount that is determined based on current laws and projections of future premium collections/policy surcharges on **in-force policies.** Discounting of asset is not required if the liability is not discounted.	.22 .25
Financial Statement Footnote Disclosures	1) Describe the nature of any assessments that could be material, and state the estimate of the liability or that an estimate could not be made. 2) To the extent that assessments have been accrued, disclose the amounts of the liabilities, any related assets, the period over which the assessments are expected to be paid and over which the assets are to be realized.	11	Disclose the amounts of the liability, any related asset, the periods over which the assessments are expected to be paid, and the period over which the assets are expected to be realized. Additionally, if amounts have been discounted, disclose the undiscounted amounts.	.27
Administrative Assessments	Not discussed		Expensed in the period assessed	.04.d.
Premium Basis	Reporting entity should use the best available information about market share, premiums by state and by line of business.	7.	Reporting entity should use the best available information about market share, premiums by state and by line of business.	.16
Recording	Charged to expense (Taxes, Licenses and Fees) and a liability accrued for contingencies. Refunds shall be credited to expense when notification of the refund is made. Changes in the amount of the liability or asset as a result of revisions to estimates shall be recorded in taxes, licenses and fees.	4. 5. 7.	Not discussed in SOP 97-3.	