



**Insurance Regulation & State Guaranty Associations
Questions & Answers with Cathy Weatherford, NAVA (The Association for Insured
Retirement Solutions) CEO & President**

Introduction

NAVA continues to field numerous questions about the safety and security of annuities during these uncertain financial times. Therefore, we've developed a Q&A to educate and inform investors and advisors about how regulatory efforts ensure maximum protection for annuity policyholders, and how state guaranty associations operate as additional safety nets.

NAVA worked with NAIC regulatory experts to ensure the accuracy of the Q&A. The National Association of Insurance Commissioners (NAIC) is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and five U.S. territories. The NAIC serves the needs of consumers and the industry, with an overriding objective of supporting state insurance regulators as they protect consumers and maintain the financial stability of the insurance marketplace.



For more information and a link to state insurance departments, visit www.naic.org.
For access to NAIC's Consumer Information Source, visit <https://eapps.naic.org/cis/>.

Question & Answer

Q. How are insurance companies regulated?

A. Insurance companies are regulated at the state level. Each state has its own set of laws, rules and regulations over the insurance companies that domicile in the state as well as extensive oversight of insurance companies domiciled in another state that also seek licensure in the state.

Q. How has insurance regulation evolved in recent years?

A. Over the past two decades, insurance regulation has evolved to become similar in many aspects. The most similar, cooperative and collaborative area of insurance regulation is in the area of solvency.

The states have established a uniform system of laws, rules, regulations and mutual cooperation that every state strives to adhere to through the National Association of Insurance Commissioners Solvency Accreditation Program. As of March 2009, fifty departments were accredited. Furthermore, since the program began, all 50 states and the

District of Columbia have adopted laws and regulations designed to bring them closer to meeting the NAIC's accreditation standards.

Q. How do insurance regulators monitor a company's capital?

- A. State insurance regulators have applied conservative requirements on insurance entities, which have bolstered the life insurers to remain solvent in these difficult economic times.

First, state insurance regulators apply more conservative accounting requirements by not allowing certain assets (non-admitted) to be included in capital and surplus.

Second, many states have implemented investment limitations to reduce exposure to a single issuer as well as to specific asset classes such as bonds and equities. Additionally, many other risky types of transactions are either limited or prevented.

Third, many states have incorporated derivative restrictions whereby insurers who write derivative contracts must cover these transactions with assets set aside for that risk.

Fourth, state regulators have set minimum capital requirements in Risked Based Capital (RBC). Most life insurance entities have RBC levels of six to seven times their solvency capital.

Finally, in addition to regulatory reviews, insurers must also undergo annual independent audits. State regulators monitor the solvency of insurers at least quarterly or more frequently for at-risk insurers.

Q. In spite of these conservative state regulations, there is no guarantee that a company will not become troubled or insolvent. What else is in place to protect consumers in the event that a company becomes troubled or insolvent?

- A. Regulators can protect policyholders' interests by requiring insurers to meet certain financial standards and take corrective action (intervention) when necessary. With regard to a troubled insurer, the nature of the appropriate intervention varies depending on the circumstances. The essential objective is to prevent or minimize losses and to provide protection for policyholders. There are two levels of regulatory actions with respect to troubled companies: 1) actions to prevent a financially troubled insurer from becoming insolvent; and 2) delinquency proceedings against an insurer for the purpose of conserving, rehabilitating, reorganizing or liquidating the insurer. Preventive actions can include restriction on activities, cease and desist orders, supervision, and notice of impairments.

If intervention and receivership proceedings do not fully address concerns, state guaranty associations have been established to protect policyholders, annuitants, claimants and beneficiaries against financial losses due to insurer insolvencies. Essentially, in the unlikely event that an insurer in liquidation is unable to pay all its financial obligations, states would access the guaranty association to make up the difference. The guaranty

association will pay certain policies up to specific statutory limits in the event of a shortfall from an insurer's assets.

Q. What is a state guaranty association?

A. State guaranty associations are offered in every state to protect contract owners against the insolvency of an insurance company that has issued certain insurance contracts, including annuity contracts.

Q. Do guaranty associations differ by state, or are they uniform across the country?

A. Guaranty associations differ by state because each state's laws set different limits on benefits and coverage.

Q. Are insurance companies required to be members of a state guaranty association?

A. Yes, all insurance companies licensed to sell life or health insurance in a state must be members of the state's guaranty association.

Q. How are guaranty associations funded?

A. Guaranty associations are funded by the insurance industry, not taxpayers. In order to amass the funds needed to protect the state's policyholders, insurers doing business in that state are assessed a share of the amount required to meet all covered claims.

Q. What are guaranty associations?

A. Guaranty associations are non-profit organizations created by statute for the purpose of protecting policyholders from severe losses and delays in claim payment due to insolvency of an insurance carrier.

All states, the District of Columbia and Puerto Rico have one or more guaranty associations, with each association handling certain types of insurance. Typically, most states have two types of guaranty associations: a life and health insurance guaranty association and a property and casualty insurance guaranty association.

Q. Are there practical examples of how guarantee associations work?

Q1. If a given state provides \$100,000 in protection on a client's annuity, is that protection capped at \$100,000 regardless of how many annuities they own? For example, suppose a client has \$1,000,000 in annuities and has ten \$100,000 annuity accounts spread out at ten different insurance companies. If two of the insurance companies became insolvent, would the client's protection be \$200,000 or would it be capped at \$100,000?

A. The client's protection would be capped at \$200,000 because the coverage is related to one particular company.

Q2. If the same client had, for some reason, all ten annuity contracts at the same insurance company, would they be limited to \$100,000 in coverage?

A. Yes, however, there may be some flexibility if the policy/contract types are different.

Q3. If the same client actually received \$100,000 due to a failure, and then a year later another company that they had a \$100,000 account with went out would they be eligible for protection? In other words, is there a reset or a window of time where a client is only eligible for a certain amount of protection?

A. Yes, the client would be eligible for the same protection. There is no time limit for a client to be eligible for a certain amount of protection.

Q. Who oversees the guaranty association?

A. A board of directors and the state's insurance regulator generally govern the guaranty associations.

Q. Do state guaranty associations cover all types of insurance?

A. Individual and group life insurance policies, as well as individual annuities, long-term care and disability income insurance policies are covered by life and health guaranty associations.

Q. What are the primary advantages of state guaranty associations?

A. By virtue of their role, guaranty associations are able to provide two important benefits, including prompt payment of covered claims and payment of the full value of covered claims up to the guaranty association's cap.

Q. On average, what is the coverage provided for annuity contracts?

A. The coverage provided for annuity contracts varies from state to state, but cash values and annuity benefits generally are protected for at least \$100,000.

Q. What type of protection is typically available for variable account contract holders in the event of insolvency?

A. Variable annuity contracts are typically issued through life insurance company separate accounts, which are insulated from the general creditors of the life insurance company in the event of insolvency. In some states, annuity assets are shielded from a contract owner's creditors as well.

Q. Can policyholders file claims with more than one guaranty association?

A: The state guaranty association system is intended to assign a given claim to only one guaranty association. In rare instances, it may be possible that one association has primary responsibility for a claim and another state guaranty association has secondary liability. In such cases it may be possible to file a claim with both associations, but in any event, the total amount paid cannot exceed the amount of coverage provided under your policy.

Q. What requirements have to be met in order for claims to be covered by a guaranty association?

A. To be covered by a guaranty association, a number of conditions must be met. The claim must:

- Be unpaid
- Exist before the insolvency or arise within 30 days after the Order of Liquidation
- Be on a policy written by an insolvent insurer that was licensed to do business in the state and in a line of business covered by the guaranty association
- Be brought by a claimant or insured who is a resident of the state
- Be filed with the guaranty association before the claims cut-off date
- Not be covered by other insurance

Q. Has there been any recent legislation introduced surrounding guaranty associations?

A. A new proposal was introduced to Congress in April 2009 to grant insurance companies the option of being federally regulated and create a guaranty association to protect consumers against the insolvency of a federally regulated insurer.

Federally regulated companies would have to pay into the federal guaranty association as well as pay insolvency assessments levied by the state guaranty association in which they are licensed to do business.

It remains to be seen whether this legislation will be passed.

Q. How do I find out more about the guaranty association in my respective state?

A. See NOLGHA link for information. <http://www.nolhga.com/>



About NAVA: NAVA, the Association for Insured Retirement Solutions®, is a non-profit trade association dedicated to promoting consumer confidence in the value and viability of insured retirement solutions, including annuity and variable life insurance products. NAVA pursues advocacy on federal policy matters that affect the annuities business directly, provides informational resources to members and the public, and protects customers by encouraging adherence to the highest ethical standards by all participants in the financial services industry. NAVA membership is comprised of insurance companies, asset managers, service providers and distribution firms, including broker dealers and banks. For more information on NAVA, visit www.NAVAnet.org.