

**Statutory Accounting Principles (E) Working Group
Spring National Meeting
Comment Letters Received**

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December 10, 2024

Mr. Dale Bruggeman
Chair, NAIC Statutory Accounting Principles (E) Working Group

Re: Agenda Item 2024-07, Modified Coinsurance Reporting

Dear Mr. Bruggeman:

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to comment on Agenda Item 2024-07. We write to urge the Working Group to reject the proposed new Schedule F Part 7 to the property casualty Annual Statement that would require special reporting for funds withheld for reinsurance contracts. We participated in the discussions and endorse the comments of the industry's interested parties group on this item, but would like to raise several issues that are specific to property casualty insurers as there are significant differences in funds held arrangements between property casualty and life insurers.

The use of funds withheld arrangements in property and casualty reinsurance agreements has declined due to the recognition of Certified Reinsurers and Reciprocal Jurisdictions.

There are generally two types of arrangements in the property and casualty insurance industry where cash were "withheld" in past reinsurance transactions. The first is quota share arrangements where the cedent would hold back cash as both a credit risk mitigant and to lessen the operational burden of funds being paid to/from the reinsurer. The second was cash received as collateral in lieu of a letter of credit or trust agreement to allow the ceding insurer to take credit for reinsurance. The cash withheld component of these agreements is generally no longer used due to changes in the reinsurance collateral rules with the introduction of Certified Reinsurers and Reciprocal Jurisdictions. As a result, the reinsurance agreements in which funds were withheld as collateral in the past are in runoff and thus the proposed reporting change would generally only apply to older reinsurance contracts where the cash withheld amounts are generally no longer significant.

No specifically identified assets

The proposed Schedule F-Part 7 requires specific identification and reporting of the assets comprising funds withheld. This is contrary to the manner in which property casualty reinsurance is conducted. Property casualty insurers do not use modified co-insurance (modco) and ceding companies generally hold cash in the funds withheld arrangement and the cash held is comingled with the ceding company's general cash account(s). There was no need to designate specific assets as supporting a funds withheld liability because the necessary amounts due the reinsurer are either paid from the ceding company's general account or are netted with amounts receivable from the reinsurer in satisfaction of amounts owed to the cedent. If the new Schedule F Part 7 requires companies to segregate assets to support funds withheld, this would require companies to attempt to track fungible cash from funds withheld to the investments made from those funds for reinsurance agreements that were generally entered into prior to the reinsurance collateral changes

¹ APCIA is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members include companies of all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

and are in runoff. In addition, such reporting would not be supported by any legal restriction on such cash (in fact, no such legal restriction exists).

Funds withheld already reported

Schedule F, Part 3 of the property casualty Annual Statement already requires ceding companies to report funds withheld with regard to each reinsurer with which the cedent does business. Funds withheld are further included in the analysis of credit risk in Part 3. Since funds withheld are not attributable to specific assets, there is no additional reporting to be made.

No significant effect on RBC

We understand that in the life insurance industry funds withheld and modco assets may be separately identified, and that such identification has RBC (risk-based capital) and/or IMR (interest maintenance reserve) consequences. The identity of funds withheld assets has no implications for property casualty insurers – the RBC charge for a particular type of asset is not affected by whether the asset relates to funds withheld or not. In other words, any asset will have the appropriate RBC charge whether it is a funds held asset or not.

Finally, we notice that the agenda item contains no rationale for imposing this requirement on property casualty insurers except that “funds withheld also exist for property/casualty insurance”. This is not a sufficient reason to impose an unnecessary requirement that will require significant company resources for no solvency-related purposes. APCIA respectfully requests that this agenda item be amended to remove the proposed requirement for a new property casualty Part 7.

Sincerely,



Jay Muska, CFA, CPA
Vice President of Accounting and Financial Issues
American Property and Casualty Insurance Association

cc: Julie Gann
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December 16, 2024

Mr. Dale Bruggeman, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
hut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Ref #2024-07: Reporting of Funds Withheld and Modco Assets

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the following item that was exposed for comment by the Statutory Accounting Working Group (the Working Group) with comments due December 9th.

Ref #2024-07: Reporting of Funds Withheld and Modco Assets

Interested parties appreciate the opportunity to comment on the above referenced item that was re-exposed for comment by the Statutory Accounting Principles (E) Working Group (SAPWG) during the NAIC Summer National Meeting in Chicago.

The proposal, Ref # 2024-07, Reporting of Funds Withheld and Modco Assets, originated from discussions among the IMR Ad Hoc Group, as they noted issues with identifying assets that are subject to funds withheld (FWH) or modified coinsurance (Modco) arrangements. Our understanding of the intent of the proposal is to have transparency in the Annual Statement into the reduction of Risk Based Capital (RBC) charges for ceded FWH and Modco assets in the life RBC formula.

Interested parties request that SAPWG reject the proposed new Schedule F - Part 7 to the property and casualty Annual Statement that would require special reporting for FWH and Modco assets and consider the proposed alternative to the proposed new Schedule S - Part 8 to the life and health Annual Statement as discussed below.

Property & Casualty

Interested parties request that the SAPWG reject the proposed Schedule F - Part 7 for property and casualty FWH and Modco assets.

Reasons for Rejection:

1. **Limited Applicability:** Property and casualty insurers do not engage in Modco transactions. Moreover, due to the recognition of Certified Reinsurers and Reciprocal Jurisdictions, FWH provisions in reinsurance agreements have significantly decreased. Contracts with FWH provisions are typically in run-off and not substantive.
2. **Lack of Specific Asset Identification and Use Restrictions:** Past reinsurance agreements did not mandate specific identification or restrict the use of assets acquired with the withheld funds. Consequently, the assets are commingled with property and casualty insurers' general account assets and reported in cash and/or the appropriate investment schedule in the ceding insurer's annual statement. Additionally, FWH liabilities are either settled using general account assets or netted against amounts due from reinsurers. Currently, the amounts of FWH are reported in the aggregate on line 13 of the liabilities page of the annual statement balance sheet and in Schedule F - Part 3, column 20, by individual reinsurer.

Life Insurance

Reporting Format

As noted in the interested parties comment letter dated May 31, 2024, we are concerned that the disclosure of CUSIP-by-CUSIP information may create competitive harm or jeopardize the proprietary nature of reinsurance pricing strategies. Additionally, the presentation of this level of information does not seem relevant based on the stated objective of the accounting standard.

Given these concerns, we recommend that this proposed schedule follow the format of the AVR Schedule in the Annual Statement that shows summarized data by each asset class and rating category. This approach ties directly to the 20-category structure used by the RBC calculation which will allow software providers to easily program the asset totals to move through to the RBC calculation. FWH and Modco assets in this schedule would include Book/Adjusted Carrying Value (BACV) of General Account and Guaranteed Separate Account assets.

We have created a revised version of the exposed Schedule S – Part 8 (see attachment) utilizing the AVR Schedule format including ceded and assumed transactions. Given that this revised schedule is based on the AVR Schedules format, any future changes to the AVR schedules should be considered for Schedule S – Part 8.

We believe this solution would address regulators' goals with respect to RBC for FWH and Modco reinsurance transactions while addressing key industry concerns by creating a direct feed to the RBC formula. For cedants, the scope of reinsurance transactions subject to this reporting

requirement would be where RBC credit is taken for asset risks transferred to the assuming entity. For assuming companies, the scope would include transactions where RBC asset charges are taken for asset risks assumed from the cedant.

Separate Account Assets

For Separate Account assets where there is no C-1 required capital, interested parties propose including the BACV of such FWH and Modco assets as a single line in the schedule. For example, reinsurance arrangements involving liabilities supported by Non-Guaranteed Separate Account assets are typically reinsured on a Modco basis, as the underlying assets are owned by the policyholders rather than the insurer. Consequently, they do not incur an RBC asset charge and are not recorded in an AVR schedule.

Timing

To facilitate the required reporting, commercial annual statement reporting vendors will need to build the new schedule into their software. Beyond that, many companies note additional work may be required to modify their investment and/or accounting systems to populate the proposed new schedules with the assets associated with FWH and Modco agreements. Others may not have the ability to make changes to their investment and/or accounting systems and would need to create manual processes including appropriate controls to meet the reporting obligations. This will all require significant time, effort, and cost. The ongoing bond definition project will compete for company resources. In spite of these challenges, the preliminary view of life interested parties is that a 2025 year-end implementation of a newly populated schedule S – Part 8 is likely achievable. However, process steps including Blanks Working Group adoption, RBC linkages, and software vendor requirements must be considered as well.

Interested parties acknowledge the importance of transparency in financial reporting for RBC with respect to assets backing FWH and Modco reinsurance transactions. We look forward to working with the SAPWG, as you further refine this proposal.

* * * *

Please feel free to contact either one of us if you have any questions or would like to discuss further.

Statutory Accounting Principles Working Group
December 16, 2024
Page 4

Sincerely,

D. Keith Bell

Rose Albrizio

cc: Interested parties
NAIC staff

| | B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|----|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| | Company | | | Statement | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | ANNUAL STATEMENT FOR THE YEAR 2023 OF THE ABC Life Insurance Company | | | | | | | | | | | | | |
| | Schedule S - Part 8 | | | | | | | | | | | | | |
| | Ceded General Account | | Ceded Guaranteed Separate | | Total Ceded Assets | | Assumed General Account | | Assumed Guaranteed Separate | | Total Assumed Assets | | | |
| | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets | Assets |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value | PRYT Book/Unrealized Carrying Value | MECO Book/Unrealized Carrying Value |
| 7 | | | | | | | | | | | | | | |
| 8 | Cash and Cash Equivalents | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | |
| 10 | LO30 - AVRDC | | | | | | | | | | | | | |
| 11 | Exempt Obligations | | | | | | | | | | | | | |
| 12 | Long-Term Bonds: NAIC Designation Category 1.A | | | | | | | | | | | | | |
| 13 | NAIC Designation Category 1.B | | | | | | | | | | | | | |
| 14 | NAIC Designation Category 1.C | | | | | | | | | | | | | |
| 15 | NAIC Designation Category 1.D | | | | | | | | | | | | | |
| 16 | NAIC Designation Category 1.E | | | | | | | | | | | | | |
| 17 | NAIC Designation Category 1.F | | | | | | | | | | | | | |
| 18 | NAIC Designation Category 1.G | | | | | | | | | | | | | |
| 19 | Subtotal NAIC 1 (2.1+2.2+2.3+2.4+2.5+2.6+2.7) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 20 | NAIC Designation Category 2.A | | | | | | | | | | | | | |
| 21 | NAIC Designation Category 2.B | | | | | | | | | | | | | |
| 22 | NAIC Designation Category 2.C | | | | | | | | | | | | | |
| 23 | Subtotal NAIC 2 (3.1+3.2+3.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 24 | NAIC Designation Category 3.A | | | | | | | | | | | | | |
| 25 | NAIC Designation Category 3.B | | | | | | | | | | | | | |
| 26 | NAIC Designation Category 3.C | | | | | | | | | | | | | |
| 27 | Subtotal NAIC 3 (4.1+4.2+4.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 28 | NAIC Designation Category 4.A | | | | | | | | | | | | | |
| 29 | NAIC Designation Category 4.B | | | | | | | | | | | | | |
| 30 | NAIC Designation Category 4.C | | | | | | | | | | | | | |
| 31 | Subtotal NAIC 4 (5.1+5.2+5.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 32 | NAIC Designation Category 5.A | | | | | | | | | | | | | |
| 33 | NAIC Designation Category 5.B | | | | | | | | | | | | | |
| 34 | NAIC Designation Category 5.C | | | | | | | | | | | | | |
| 35 | Subtotal NAIC 5 (6.1+6.2+6.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 36 | NAIC 6 | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 37 | Total Unrated Multi-Class Securities Acquired by Conversion | | | | | | | | | | | | | |
| 38 | Total Long-Term Bonds (1+2+3+4+5+6+7+8) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 39 | Preferred Stocks: Highest Quality | | | | | | | | | | | | | |
| 40 | High Quality | | | | | | | | | | | | | |
| 41 | Medium Quality | | | | | | | | | | | | | |
| 42 | Low Quality | | | | | | | | | | | | | |
| 43 | Lower Quality | | | | | | | | | | | | | |
| 44 | In or Near Default | | | | | | | | | | | | | |
| 45 | Affiliated Life with AVR | | | | | | | | | | | | | |
| 46 | Total Preferred Stocks (Sum of Lines 10 thru 16) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 47 | Short-Term Bonds: Exempt Obligations | | | | | | | | | | | | | |
| 48 | Short-Term Bonds: NAIC Designation Category 1.A | | | | | | | | | | | | | |
| 49 | NAIC Designation Category 1.B | | | | | | | | | | | | | |
| 50 | NAIC Designation Category 1.C | | | | | | | | | | | | | |
| 51 | NAIC Designation Category 1.D | | | | | | | | | | | | | |
| 52 | NAIC Designation Category 1.E | | | | | | | | | | | | | |
| 53 | NAIC Designation Category 1.F | | | | | | | | | | | | | |
| 54 | NAIC Designation Category 1.G | | | | | | | | | | | | | |
| 55 | Subtotal NAIC 1 (19.1+19.2+19.3+19.4+19.5+19.6+19.7) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 56 | NAIC Designation Category 2.A | | | | | | | | | | | | | |
| 57 | NAIC Designation Category 2.B | | | | | | | | | | | | | |
| 58 | NAIC Designation Category 2.C | | | | | | | | | | | | | |
| 59 | Subtotal NAIC 2 (20.1+20.2+20.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 60 | NAIC Designation Category 3.A | | | | | | | | | | | | | |
| 61 | NAIC Designation Category 3.B | | | | | | | | | | | | | |
| 62 | NAIC Designation Category 3.C | | | | | | | | | | | | | |
| 63 | Subtotal NAIC 3 (21.1+21.2+21.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 64 | NAIC Designation Category 4.A | | | | | | | | | | | | | |
| 65 | NAIC Designation Category 4.B | | | | | | | | | | | | | |
| 66 | NAIC Designation Category 4.C | | | | | | | | | | | | | |
| 67 | Subtotal NAIC 4 (22.1+22.2+22.3) | 0 | | 0 | | | 0 | | | 0 | | | 0 | |
| 68 | NAIC Designation Category 5.A | | | | | | | | | | | | | |
| 69 | NAIC Designation Category 5.B | | | | | | | | | | | | | |
| 70 | NAIC Designation Category 5.C | | | | | | | | | | | | | |

| B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|---------|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 71 23.4 | Subtotal NAIC 5 (23.1+23.2+23.3) | 0 | | 0 | 0 | | | 0 | | 0 | | | |
| 72 24 | NAIC 6 | | | | | | | | | | | | |
| 73 25 | Total Short-Term Bonds (18+19+8+20+4+21.4+22.4+23+24) | 0 | | 0 | | | | 0 | | 0 | | | |
| 74 26 | Derivative Instruments: Exchange Traded | | | | | | | | | | | | |
| 75 27 | Highest Quality | | | | | | | | | | | | |
| 76 28 | High Quality | | | | | | | | | | | | |
| 77 29 | Medium Quality | | | | | | | | | | | | |
| 78 30 | Low Quality | | | | | | | | | | | | |
| 79 31 | Lower Quality | | | | | | | | | | | | |
| 80 32 | In or Near Default | | | | | | | | | | | | |
| 81 33 | Total Derivative Instruments | 0 | | 0 | | | | 0 | | 0 | | | |
| 82 34 | Total (Lines 9 + 17 + 25 + 33) | 0 | | 0 | | | | 0 | | 0 | | | |
| 83 35 | Mortgage Loans: In Good Standing: Farm Mortgages - CM1 - highest quality | | | | | | | | | | | | |
| 84 36 | Farm Mortgages - CM2 - high quality | | | | | | | | | | | | |
| 85 37 | Farm Mortgages - CM3 - medium quality | | | | | | | | | | | | |
| 86 38 | Farm Mortgages - CM4 - low medium quality | | | | | | | | | | | | |
| 87 39 | Farm Mortgages - CM5 - low quality | | | | | | | | | | | | |
| 88 40 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 89 41 | Residential Mortgages - All Other | | | | | | | | | | | | |
| 90 42 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 91 43 | Commercial Mortgages - All Other - CM1 - highest quality | | | | | | | | | | | | |
| 92 44 | Commercial Mortgages - All Other - CM2 - high quality | | | | | | | | | | | | |
| 93 45 | Commercial Mortgages - All Other - CM3 - medium quality | | | | | | | | | | | | |
| 94 46 | Commercial Mortgages - All Other - CM4 - low medium quality | | | | | | | | | | | | |
| 95 47 | Commercial Mortgages - All Other - CM5 - low quality | | | | | | | | | | | | |
| 96 48 | Overdue, Not in Process: Farm Mortgages | | | | | | | | | | | | |
| 97 49 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 98 50 | Residential Mortgages - All Other | | | | | | | | | | | | |
| 99 51 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 100 52 | Commercial Mortgages - All Other | | | | | | | | | | | | |
| 101 53 | In Process of Foreclosure: Farm Mortgages | | | | | | | | | | | | |
| 102 54 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 103 55 | Residential Mortgages - All Other | | | | | | | | | | | | |
| 104 56 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | |
| 105 57 | Commercial Mortgages - All Other | | | | | | | | | | | | |
| 106 58 | Total Schedule B Mortgages (Sum of Lines 35 thru 57) | 0 | | 0 | | | | 0 | | 0 | | | |
| 107 59 | Schedule DA Mortgages | | | | | | | | | | | | |
| 108 60 | Total Mortgage Loans on Real Estate (Lines 58 + 59) | 0 | | 0 | | | | 0 | | 0 | | | |
| 109 | | | | | | | | | | | | | |
| 110 | 1033 - AVREC | | | | | | | | | | | | |
| 111 01 | Unaffiliated Public | | | | | | | | | | | | |
| 112 02 | Unaffiliated Private | | | | | | | | | | | | |
| 113 03 | Federal Home Loan Bank | | | | | | | | | | | | |
| 114 04 | Affiliated Life with AVR | | | | | | | | | | | | |
| 115 05 | Affiliated Investment Subsidiary: Fixed Income - Exempt Obligations | | | | | | | | | | | | |
| 116 06 | Fixed Income - Highest Quality | | | | | | | | | | | | |
| 117 07 | Fixed Income - High Quality | | | | | | | | | | | | |
| 118 08 | Fixed Income - Medium Quality | | | | | | | | | | | | |
| 119 09 | Fixed Income - Low Quality | | | | | | | | | | | | |
| 120 10 | Fixed Income - Lower Quality | | | | | | | | | | | | |
| 121 11 | Fixed Income - In/Near Default | | | | | | | | | | | | |
| 122 12 | Unaffiliated Common Stock - Public | | | | | | | | | | | | |
| 123 13 | Unaffiliated Common Stock - Private | | | | | | | | | | | | |
| 124 14 | Real Estate | | | | | | | | | | | | |
| 125 15 | Affiliated - Certain Other (See SVO Purposes and Procedures Manual) | | | | | | | | | | | | |
| 126 16 | Affiliated - All Other | | | | | | | | | | | | |
| 127 17 | Total Common Stock (Sum of Lines 1 through 16) | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | |
| 128 18 | Real Estate: Home Office Property (General Account only) | | | | | | | | | | | | |
| 129 19 | Investment Properties | | | | | | | | | | | | |
| 130 20 | Properties Acquired in Satisfaction of Debt | | | | | | | | | | | | |
| 131 21 | Total Real Estate (Sum of Lines 18 through 20) | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | |
| 132 22 | Other Invested Assets: Exempt Obligations | | | | | | | | | | | | |
| 133 23 | Highest Quality | | | | | | | | | | | | |
| 134 24 | High Quality | | | | | | | | | | | | |
| 135 25 | Medium Quality | | | | | | | | | | | | |
| 136 26 | Low Quality | | | | | | | | | | | | |
| 137 27 | Lower Quality | | | | | | | | | | | | |

| | B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|--------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 138 28 | In or Near Default | | | | | | | | | | | | | |
| 139 29 | Total with Bond Characteristics (Sum of Lines 22 thru 26) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| 140 30 | Investments with Underlying...Preferred Stocks: Highest Quality | | | | | | | | | | | | | |
| 141 31 | High Quality | | | | | | | | | | | | | |
| 142 32 | Medium Quality | | | | | | | | | | | | | |
| 143 33 | Low Quality | | | | | | | | | | | | | |
| 144 34 | Lower Quality | | | | | | | | | | | | | |
| 145 35 | In or Near Default | | | | | | | | | | | | | |
| 146 36 | Affiliated Life with AVR | | | | | | | | | | | | | |
| 147 37 | Total with Preferred Stock Characteristics (Sum of Lines 30 thru 36) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| | Investments with Underlying... Mortgage Loans: In Good Standing | | | | | | | | | | | | | |
| 148 38 | Standing Affiliated: Mortgages - CM1 - highest quality | | | | | | | | | | | | | |
| 149 39 | Mortgages - CM2 - high quality | | | | | | | | | | | | | |
| 150 40 | Mortgages - CM3 - medium quality | | | | | | | | | | | | | |
| 151 41 | Mortgages - CM4 - low medium quality | | | | | | | | | | | | | |
| 152 42 | Mortgages - CM5 - low quality | | | | | | | | | | | | | |
| 153 43 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 154 44 | Residential Mortgages - All Other | | | | | | | | | | | | | |
| 155 45 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 156 46 | Overdue, Not in Process Affiliated: Farm Mortgages | | | | | | | | | | | | | |
| 157 47 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 158 48 | Residential Mortgages - All Other | | | | | | | | | | | | | |
| 159 49 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 160 50 | Commercial Mortgages - All Other | | | | | | | | | | | | | |
| 161 51 | In Process of Foreclosure Affiliated: Farm Mortgages | | | | | | | | | | | | | |
| 162 52 | Residential Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 163 53 | Residential Mortgages - All Other | | | | | | | | | | | | | |
| 164 54 | Commercial Mortgages - Insured or Guaranteed | | | | | | | | | | | | | |
| 165 55 | Commercial Mortgages - All Other | | | | | | | | | | | | | |
| 166 56 | Total Affiliated (Sum of Lines 38 through 55) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| 167 57 | Unaffiliated - In Good Standing With Covenants | | | | | | | | | | | | | |
| | Unaffiliated - In Good Standing Defeased With Government Securities | | | | | | | | | | | | | |
| 168 58 | Government Securities | | | | | | | | | | | | | |
| 169 59 | Unaffiliated - In Good Standing Primarily Senior | | | | | | | | | | | | | |
| 170 60 | Unaffiliated - In Good Standing All Other | | | | | | | | | | | | | |
| 171 61 | Unaffiliated - Overdue, Not in Process | | | | | | | | | | | | | |
| 172 62 | Unaffiliated - In Process of Foreclosure | | | | | | | | | | | | | |
| 173 63 | Total Unaffiliated (Sum of Lines 57 through 62) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| 174 64 | Total with Mortgage Loan Characteristics (Lines 56 + 63) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| | Investments with Underlying... Common Stock: Unaffiliated Public | | | | | | | | | | | | | |
| 175 65 | Unaffiliated Public | | | | | | | | | | | | | |
| 176 66 | Unaffiliated Private | | | | | | | | | | | | | |
| 177 67 | Affiliated Life with AVR | | | | | | | | | | | | | |
| 178 68 | Affiliated Certain Other (See SVO Purposes & Procedures Manual) | | | | | | | | | | | | | |
| 179 69 | Affiliated Other - All Other | | | | | | | | | | | | | |
| 180 70 | Total with Common Stock Characteristics (Sum of Lines 65 thru 69) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| | Investments with Underlying... Real Estate: Home Office Property (General Account Only) | | | | | | | | | | | | | |
| 181 71 | Property (General Account Only) | | | | | | | | | | | | | |
| 182 72 | Investment Properties | | | | | | | | | | | | | |
| 183 73 | Properties Acquired in Satisfaction of Debt | | | | | | | | | | | | | |
| | Total with Real Estate Characteristics (Lines 71 through 73) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| 184 74 | Low Income Housing Tax Credit Investments: Guaranteed Federal Low Income Housing Tax Credit | | | | | | | | | | | | | |
| 185 75 | Non-guaranteed Federal Low Income Housing Tax Credit | | | | | | | | | | | | | |
| 186 76 | Guaranteed State Low Income Housing Tax Credit | | | | | | | | | | | | | |
| 187 77 | Non-guaranteed State Low Income Housing Tax Credit | | | | | | | | | | | | | |
| 188 78 | All Other Low Income Housing Tax Credit | | | | | | | | | | | | | |
| 189 79 | Total LIHTC (Sum of Lines 75 through 79) | | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 | |
| 190 80 | Residual Tranches or Interests: Fixed Income Instruments - Unaffiliated | | | | | | | | | | | | | |
| 191 81 | Fixed Income Instruments - Affiliated | | | | | | | | | | | | | |
| 192 82 | Common Stock - Unaffiliated | | | | | | | | | | | | | |
| 193 83 | Common Stock - Affiliated | | | | | | | | | | | | | |
| 194 84 | Preferred Stock - Unaffiliated | | | | | | | | | | | | | |
| 195 85 | Preferred Stock - Affiliated | | | | | | | | | | | | | |
| 196 86 | Real Estate - Unaffiliated | | | | | | | | | | | | | |
| 197 87 | Real Estate - Unaffiliated | | | | | | | | | | | | | |

| | B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|--------|--|---|--------------|--------------|--------------|--------------|--------------|---|--------------|--------------|--------------|--------------|---|---|
| 198 88 | Real Estate - Affiliated | | | | | | | | | | | | | |
| 199 89 | Mortgage Loans - Unaffiliated | | | | | | | | | | | | | |
| 200 90 | Mortgage Loans - Affiliated | | | | | | | | | | | | | |
| 201 91 | Other - Unaffiliated | | | | | | | | | | | | | |
| 202 92 | Other - Affiliated | | | | | | | | | | | | | |
| 203 93 | Total Residual Tranches or Interests (Sum of Lines 81 through 92) | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 204 94 | All Other Investments: NAIC 1 Working Capital Finance Investments | | | | | | | | | | | | | |
| 205 95 | NAIC 2 Working Capital Finance Investments | | | | | | | | | | | | | |
| 206 96 | Other Invested Assets - Schedule BA | | | | | | | | | | | | | |
| 207 97 | Other Short-term Invested Assets - Schedule DA | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 208 98 | Total All Other (Sum of Lines 94, 95, 96 and 97) | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 209 99 | Total Other Invested Assets - Schedules BA, & DA (Sum of Lines 29, 37, 64, 70, 74, 80, 93 and 98) | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 210 | | | | | | | | | | | | | | |
| 211 | Total Non-guaranteed Separate Account Assets | | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | | | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | | |
| 212 | | | | | | | | | | | | | | |
| 213 | Total Assets including Non-guaranteed Separate Account Assets | | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | XXXXXXXXXXXX | | |
| 214 | | | | | | | | | | | | | | |
| 215 | Notes: Column 5 = Column 1 + Column 3 Column 6 = Column 2 + Column 4 Column 11 = Column 7 + Column 9 Column 12 = Column 8 + Column 10 | | | | | | | | | | | | | |
| 216 | | | | | | | | | | | | | | |
| 217 | | | | | | | | | | | | | | |
| 218 | | | | | | | | | | | | | | |
| 219 | | | | | | | | | | | | | | |
| 220 | | | | | | | | | | | | | | |



December 16, 2024

Mr. Dale Bruggeman, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: 2024-07 Reporting of Funds Withheld and Modco Assets

Dear Mr. Bruggeman:

Thank you for the opportunity to comment on the above-referenced item that was re-exposed by the Statutory Accounting Principles (E) Working Group (SAPWG). The intent of this item was to make it easier to identify assets that are subject to a funds withheld or modified co-insurance arrangements through updated reporting in the financials.

Interested parties previously submitted comments in response to the initial exposure indicating that, under certain reinsurance arrangements, it would not be possible to identify or report specific assets for funds withheld as proposed in this exposure. To further clarify the point in the original comment letter, we would like to provide the following example, which is similar to several of our reinsurance arrangements:

An insurer may have a reinsurance arrangement transferring insurance risk whereby the terms of the agreement require funds to be withheld equal to the amount of ceded statutory reserves. The funds are withheld to permit statutory credit for nonadmitted reinsurance. The insurer's financial statements would reflect a ceded funds withheld liability. In this case, there is no investment risk being passed to the reinsurer and no specific assets separately identified. As such, the information proposed to be disclosed in the newly developed Schedule S page would not be applicable to this type of arrangement with these characteristics. This type of reinsurance arrangement is often seen for health insurance.

In the re-exposed item, SAPWG staff noted that the Life RBC formula reflects a reduction in RBC charges for modco and funds withheld assets. This reduction is by asset type and often by asset designation. SAPWG staff also indicated the fair value of the assets withheld is also reported in the reinsurance Schedule S and F as collateral. As such, SAPWG staff feels there may be a disconnect.

In response to these points, it is important to note that assets are only required to be identified for Life RBC calculation purposes if the insurer is passing investment risk to the reinsurer. For the types of arrangements with the characteristics described in our example above, this RBC reporting requirement does not apply. In addition, upon review of the

instructions for Schedule S, we were unable to locate a place in Schedule S where we are required to report fair value of the assets withheld as collateral. The fair value reporting requirement applies to assets that are held in a trust or are otherwise placed on deposit by the reinsurer; however, in the example given above, the assets are simply investments within the ceding company's general account and are not segregated or separately identified.

We respectfully request the Working Group limits the application of this guidance and Schedule S reporting requirement to reinsurance arrangements under which investment risk is being passed to the reinsurer or where the terms of the reinsurance arrangement require a segregation or specific identification of assets used to collateralize the ceded reserves. Arrangements without such characteristics should be excluded from the reporting requirements as they are not applicable.

Please feel free to contact me if you have any questions or would like to discuss the above recommendation.

Sincerely,

Sherry Gillespie

Senior Director, Regulatory Finance

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December 16, 2024

Updated January 30, 2025: See Ref #2022-14 and Repurchase Agreements beginning on page 9 (both indicated by ***)

Mr. Dale Bruggeman, Chairman
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National Association of Insurance Commissioners
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Kansas City, MO 64106-2197

RE: Interested Parties Comments on the Items Exposed for Comment by the Statutory Accounting Principles Working Group with Comments due December 16th

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the following items that were exposed for comment by the Statutory Accounting Working Group (the Working Group) with comments due December 16th.

Ref #2022-14: *New Market Tax Credits****

On May 16, 2023, the Working Group exposed revisions to SSAP No. 93 – *Investments in Tax Credit Structures*, and 94R – *State and Federal Tax Credit*. The revisions to SSAP No. 93 propose adoption with modification of ASU 2023-02 and expansion of the SSAP scope to include all tax credit programs and tax investment structures. The revisions to SSAP No. 94R expand the scope of the SSAP to include all state and federal tax credits whether purchased or allocated, and that tax received should be recorded at face value with losses realized immediately and gains deferred.

Interested parties have no comments on this item.

Ref #2023-24: Current Expected Credit Losses (CECL)

The Working Group exposed for comment an Issue Paper to document for the historical record the Generally Accepted Accounting Principles impairment guidance which existed prior to the implementation of *Accounting Standards Update (ASU) 2016-13, Financial Instruments—Credit Losses* (CECL). In January 2024, the Working Group rejected CECL for statutory accounting purposes and directed NAIC staff to prepare this issue paper. Since many SSAPs adopted pre-CECL impairment guidance, the Working Group wanted to ensure that any guidance which was superseded by CECL was readily available for future use.

Interested parties agree with the concepts noted in the draft Issue Paper but would like additional time to address some of the descriptions of current GAAP practice versus statutory accounting to ensure that the descriptions are technically correct.

Ref #2024-04: Conforming Repurchase Agreements Assets

On August 13, 2024, the Working Group exposed this agenda item along with a memo detailing accounting and reporting guidance for repurchase agreements and securities lending transactions.

Interested parties have repeated the memo below and provided comments in italics following each section.

Overview: Fundamentally, securities lending and repurchase/reverse repurchase (Repo) transactions perform similar functions and are entered into for short-term collateralized funding/lending. Although some articles identify that the type of collateral exchanged (security or cash) is a key difference, from discussions with industry cash or securities can be used as collateral under either a security lending or repo agreement. Industry has identified that the counterparty is a key difference between the transactions.

Although similar in function, the accounting and reporting for securities lending and repurchase transactions are different under statutory accounting even when both are accounted for under the “secured borrowing” approach. (All scenarios below focus on secured borrowing accounting, and not as a “sale,” as that is the more prevalent accounting approach.)

This memo intends to document the current accounting guidance and identify how NAIC staff believe accounting and reporting should be reflected. The Working Group is requesting comments on this memo, particularly within the established notes. Subsequently, NAIC staff plan to propose statutory accounting and reporting changes to reflect a consistent approach between securities lending and repurchase transactions.

The guidance for securities lending / borrowings and repo agreements are in *SAP No. 103—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. Although other aspects of the SSAP are applicable, focused guidance for these transactions are in the following paragraphs:

- Securities Lending: Paragraphs 85-92.
- Securities Borrowing: Paragraphs 93-95

- Repurchase Agreements: Paragraphs 102-104 & 113
- Reverse Repurchase Agreements: Paragraphs 111-113

Broad concepts for secured borrowing are in paragraph 19. The concepts for securities lending differ from this guidance with the requirement to recognize items on balance sheet with the ability to sell/repledge collateral. Disclosure guidelines for these transactions are in paragraph 28.

The “conforming” securities lending guidelines are captured in the RBC instructions. The full detail of the requirements is included as an appendix to this memo, but collateral requirements include:

- Cash and cash equivalents
- Direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States, or any agency of the United States, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
- NAIC 1 Designated Securities
- Affiliated-issued collateral is not deemed acceptable.
- In all cases, collateral held must be permitted investments in the state of domicile for the respective insurer.

Securities Lending – Reporting Entity Lends a Security and Receives Collateral in Exchange:

A security lending transaction involves the temporary transfer of securities from one party (security lender) to another party (security borrower) and with the lender receiving collateral from the borrower to protect against the risk of loss. The lender receives a fee for the use of the security. Under statutory accounting guidance, the accounting for security lending depends on whether the reporting entity has the ability to pledge or sell the collateral received.

1. Lending Entity Cannot Sell / Repledge Security Collateral Received:

- a) Reporting entity lends a security under a secured borrowing agreement. The reporting entity retains the lent security on books and codes it as a restricted asset.
- b) Reporting entity lender does not recognize security collateral received as an asset and does not recognize an obligation to return the collateral.
- c) If the fair value of the collateral received drops below 100% of the fair value of the loaned security, then the reporting entity (lender) is to nonadmit a portion of loaned security (which is still reported on the books). The amount nonadmitted should be the difference between the collateral and the security reported on the books. (This calculation is done at any point in time – so for a lent \$100 bond, if the fair value of the bond declines to \$90, then the collateral comparison would be done to the current FV of the bond, and not the FV at the time the security was lent. So, if collateral was received at \$102, and declined to \$90 (matching the bond), nonadmittance would not be required.) The comparison is also completed in aggregate by counterparty, so if the collateral for one security was to appreciate in value, and the collateral for another was to decline, as long as the combined collateral value continued to represent 100% of the fair value of the loaned securities, additional collateral would not be required.

The Restricted Asset / RBC Impact is as follows:

- d) The retained asset lent to the counterparty should be identified as a restricted asset. This loaned asset shall be captured on general interrogatory (GI) line 25.04 or GI line 25.05 based on whether the security lending arrangement is considered to be a ‘conforming’ security lending program. Amounts reported on these lines flow to LR017 (Off-Balance Sheet and Other Items), lines 1 and 2. Items captured in GI line 25.04 (conforming) receive a 0.0020 RBC charge. Items captured in GI line 25.05 (nonconforming) receive a 0.0126 RBC charge. There is no current disclosure on the type of collateral received for these off-balance sheet programs. As such, regulators cannot verify from the financial statements whether the program complies with the “conforming” program requirements. However, as the collateral cannot be sold/repledged, if the collateral complies with the conforming requirements, there would be no change to that assessment over the duration of the transaction. *(Note 1)*
- e) As the collateral asset is not recognized on book of the lender, there is no RBC asset (C-1) charge. As the collateral asset is not recognized, there is no restricted asset reporting or RBC restricted asset charge. The restricted asset charge is placed on the asset that is lent but still retained on the books as discussed above in paragraph 1d. *(Note 2)*

Note 1: Should the type of collateral received in these programs be captured in a financial statement disclosure to allow for regulator verification of the “conforming” program guidelines? Additionally, it has been noted that the admittance calculation focuses solely on the fair value comparison of the collateral received to the security lent. However, there is no current guidance that assesses admittance based on the quality/type of collateral received. Under the current guidance, residuals or low-quality assets could be received and there is no documentation of this type of collateral for certain sec lending and repo programs. Even if these programs would not qualify as conforming, there is a question on whether admittance restrictions should exist based on the collateral received from the counterparty.

Interested parties’ response: Given the deferral of the conforming repo proposal, only conforming sec lending programs will be subject to the conforming guidelines. In these programs, the insurer attests to the conforming criteria. One possible additional disclosure could be footnote like footnote 5.E.8 for repo, whereby the collateral received is specified by asset type.

In typical security lending programs, the insurer receives cash in these transactions, but the master agreement between the counterparties also allows the insurer to receive high-quality collateral – restrictively defined as “acceptable collateral” - which must be marked to market regularly for ongoing margining purposes. Regardless of whether the program is conforming or not, the combination of daily margining and the restrictive definition of “acceptable collateral” should provide NAIC with sufficient comfort that additional admittance restrictions on collateral received would be duplicative.

Note 2: NAIC staff believes there is inconsistent application of the current guidance as there is a disconnect in language between RBC and the Blanks on whether the collateral received or the lent asset is identified as a restricted asset. The blanks instructions in GI 25.04 and GI 25.05 identify the

“Amount of Collateral.” The lines in RBC identify “Loaned to Others.” This inconsistency in terminology likely causes confusion on whether the amount reported should be the lent security or the collateral received in exchange. NAIC staff suggest clarifying terminology for consistency purposes, clarifying that the loaned asset retained on book should be the amount reported as restricted that flows through all schedules.

Interested parties’ response: *We agree that consistent terminology should be established between Blanks and RBC to clarify that the loaned security is identified as a restricted asset. We suggest that Blanks references to “Amount of Collateral” in GI 25.04 and GI 25.05 should be changed to “Loaned to Others,” consistent with RBC.*

2. Lending Entity Can Sell / Repledge Collateral Received – (Also Applies to Cash Collateral)

- a) Reporting entity lends a security under a secured borrowing agreement. The reporting entity retains the lent security on books and codes it as a restricted asset.
- b) Reporting entity lender recognizes collateral received from the counterparty on its book and recognizes a liability to return the collateral. (This collateral is reported on Schedule DL.) If security collateral is captured directly on the investment schedules, the collateral is **not** coded as a restricted asset. *(See paragraph 2f.)*
- c) If the fair value of the collateral received drops below 100% of the fair value of the loaned security, then the reporting entity is to nonadmit a portion of loaned security (which is still reported on the books). The amount nonadmitted should be the difference between the collateral and the security reported on the books. (This calculation is done at any point in time – so for a lent \$100 bond, if the fair value of the bond declines to \$90, then the collateral comparison would be done to the current FV of the bond, and not the FV at the time the security was lent. So, if collateral was received at \$102, and declined to \$90 (matching the bond), nonadmittance would not be required.) The comparison is also completed in aggregate by counterparty, so if the collateral for one security was to appreciate in value, and the collateral for another was to decline, as long as the combined collateral value continued to represent 100% of the fair value of the loaned securities, additional collateral would not be required. **(Note 3 & Note 4)**

The Restricted Asset / RBC Impact is as follows:

- d) The retained asset lent to the counterparty should be identified as a restricted asset. This loaned asset shall be captured on GI line 25.04 or GI line 25.05 based on whether the security lending agreement is considered to be a ‘conforming’ security lending program. Amounts reported on these lines flow to LR017 (Off-Balance Sheet and Other Items), lines 1 and 2. Items captured in GI line 25.04 (conforming) receive a 0.0020 RBC charge. Items captured in GI line 25.05 (nonconforming) receive a 0.0126 RBC charge. **(Note 5)**
- e) The current collateral recognized on the balance sheet is subject to the corresponding asset (C-1) RBC charge. (This occurs directly from the investment schedule, or indirectly from

Schedule DL if the program is administered by a third-party administrator.) The RBC charge depends on the form of the collateral. (This recognition occurs regardless of whether the original collateral is reinvested.)

- f) The collateral reported on book as it can be sold/repledged, is not coded as a restricted asset as there is an offsetting liability recognized for the obligation to return the collateral. Identifying both the lent security and the on-book collateral as restricted assets, particularly with the offsetting liability to return the collateral would result in a double-counting of restricted asset charges for the same transaction.
- g) On day 1, both the collateral asset received and liability to return are recognized at fair value. Subsequently, the asset is measured pursuant to the applicable SSAP and the liability to return shall be adjusted as needed to reflect the current fair value of the collateral originally received. If the collateral received is reinvested, the resulting asset shall be accounted for pursuant to the applicable SSAP. As the measurement method for the collateral asset on book may not reflect fair value, this may result in a disconnect between the collateral asset and liability to return reported, but the reporting entity's liability to return the collateral shall always reflect the full obligation (fair value) to return collateral originally received.

Note 3: As the collateral can be sold/repledged, there is a question on the application of the admittance provisions in paragraphs 91-92 of SSAP No. 103. That guidance is focused on the fair value of the original collateral received in comparison to the fair value of the security lent. Once the collateral has been reinvested, the reporting entity is responsible for the reinvestment risk and the counterparty is not responsible for fair value changes of the reinvested security. Although a position could be taken that the fair value of the collateral originally received should continue to be compared to the fair value of the lent security to determine if more collateral needs to be provided, with the current financial statement reporting, this information is not captured to allow assessments once the collateral has been reinvested allowing regulators to verify the admittance provisions.

Interested parties' response: *We do not believe that there is any ongoing need to compare the fair value of the original collateral received in comparison to the fair value of the security lent. One salient feature of securities lending and repurchase agreement transactions is that exchange of variation margin covers the differences that emerge over time between the original market value of the security lent and the original market value of the collateral received. The margining process maintains equality between the market value of the collateral received – plus or minus any variation margin – and the market value of the security lent. This market structure obviates the need for regulators to generate an admittance test on whether the fair value of original collateral received compares with the fair value of the security lent.*

Existing disclosures also provide regulators with sufficient visibility:

1. *Footnote 5.E.5 b: The reinvestment portfolio acquired with cash received consisted principally of high quality, liquid, publicly traded long term bonds, short term investments, cash equivalents, or held in cash. If the securities sold or the reinvestment portfolio become*

less liquid, the Company has the liquidity resources of most of its general account available to meet any potential cash demands when securities are returned to the Company.

2. *Footnote 5.E.5 provides a maturity schedule for the collateral received.*
3. *Schedule DL provides full transparency and look-through to the assets in the reinvestment portfolio.*

In summary, existing financial statements disclose the risk and maturity summary in the footnotes and provide a full schedule for reinvested assets. The fair value security lent and collateral received continue to be matched via the margining process.

Note 4: With regards to the admittance calculation, there is also a question on application when the original collateral still covers 100% of the BACV of the loaned security but does not meet the requirement for 100% of the loaned security's fair value. As an example, if the loaned security at amortized cost has a BACV of \$90, but had a fair value of \$100 when loaned, the guidance in paragraph 91 requires collateral of \$102 at the onset of the transaction. If the original collateral was to decrease in fair value to \$98, it would no longer comply with the guidance in paragraph 91 and nonadmittance of the loaned security for \$2 is expected under the guidance (\$100 - \$98). However, as the loaned security is reported at BACV of \$90, the collateral still covers the full reported value of the loaned security. If the counterparty was to default, the reporting entity would eliminate the loaned security (\$90) and the liability to return the collateral (\$98) from the books and retain the collateral asset as their own. This transaction would result in an \$8 gain for the reporting entity. If the loaned security had been nonadmitted by \$2 prior to the default due to the FV decline of the collateral, there would have been a surplus hit of \$2 for the nonadmittance. Upon the counterparty default, in addition to the \$8 gain, there would have then been a surplus bump of \$2 with the elimination of the nonadmitted asset. *(It is noted that if the fair value for the collateral asset had been retained, the reporting entity would have had a greater gain, but they are still fully covered based on how the loaned asset is reported.)* NAIC staff requests confirmation of the admittance guidance and its application from regulators, particularly when the fair value of the collateral continues to cover the BACV of the loaned security.

Interested parties' response: *We agree with NAIC staff's recommendation that admittance calculations should be based on the fair value of the original collateral and loaned security, as opposed to book value. As discussed above, the margining provisions of these contracts ensures that market values, rather than book values, remain aligned over the term of each transaction.*

Note 5: As the collateral received can be sold/repledged, there is a question on the application of the "conforming security lending" collateral requirements. From a broad review of financial statements, collateral reported on Schedule DL was identified as outside of the conforming parameters, but the security lending program was identified as "conforming" with the lower RBC charge. NAIC staff recommend clarification on the application of the "conforming" requirements. Particularly, if the intent is to permit a lower RBC charge due to the liquidity / stability of certain types of collateral, then it may be appropriate to require the collateral to always comply with the "conforming" provisions regardless of if it has been reinvested by the reporting entity.

Interested parties' response: *We believe that the narrow definition of "acceptable collateral," which is intended to be applied **only** to the original collateral received against the lent security, has been misapplied to the reinvestment portfolio. Acceptable asset classes in the reinvestment portfolio are defined in the portfolio's Investment Guidelines, not by the "acceptable collateral" criteria. Applying the narrow definition of "acceptable collateral" to the reinvestment portfolio could disrupt the economic viability of these programs.*

3. Securities Borrowing – Entity Borrows a Security and Provides Collateral in Exchange

- a) Reporting entity borrower retains security collateral provided to counterparty on book and codes it as a restricted asset. (If providing cash in exchange for the borrowed security, then the cash is derecognized with a receivable for the return.) (*Note 6*)
- b) Reporting entity borrower does not recognize the borrowed security on their books, unless the reporting entity sells the borrowed security or the counterparty defaults. If the reporting entity sells the borrowed security, the cash received or reinvested asset is recognized with an obligation (liability) to return the borrowed security. Pursuant to paragraph 94 of SSAP No. 103, assets equivalent to the fair value of the borrowed security shall be coded as a restricted asset. Specific guidance exists in SSAP No. 103 for when borrowed securities are used to settle a short-sale. (A counterparty default would always result with an unwinding of the transaction with each party reporting the asset they have in their possession as their resulting asset.) (*Note 7 & 8*)

The Restricted Asset / RBC Impact is as follows:

- c) The retained asset (provided as collateral to a counterparty) is still on the reporting entity's investment schedules and should continue to receive the RBC asset C-1 charge. It should also be coded as a restricted asset. Due to the reporting lines available, it could be coded as "collateral held under securities lending agreements" or as an "other" restricted asset and captured in GI 26.32. If captured as a collateral within a security lending agreement, would be captured on GI line 25.04 or GI line 25.05 based on whether it is from a 'conforming' security lending program. Amounts reported on these lines flow to LR017 (Off-Balance Sheet and Other Items), lines 1 and 2. Items captured in GI line 25.04 (conforming) receive a 0.0020 RBC charge. Items captured in GI line 25.05 (nonconforming) receive a 0.0126 RBC charge. If reported as an "other" restricted asset, it would be captured on GI 26.32 with a 0.0126 RBC charge.
- d) There would be no RBC impact for the borrowed security unless it is sold. At that time, the reinvested asset would be recognized and subject to an RBC asset C-1 charge. This asset (or an equivalent of other assets) would be identified as restricted. This is likely "collateral held under security lending agreement" and reported based on conforming /nonconforming in GI line 25.04 (0.0020 factor) or 25.05 (0.0126 factor).

Note 6: A security borrowing transaction is the flipside of the security lending transaction, with the reporting entity operating on the opposite side as borrower instead of lender. With this dynamic, it is

presumed that the same restricted asset categories, and whether it is a conforming program, would be determinants in reporting the restricted asset and in the resulting RBC charge. NAIC staff requests confirmation of this assessment. (A security borrowing is the transaction, and it is accounted for as a “secured borrowing” – this terminology can be confusing when discussing the design.)

Interested parties’ comments on Notes 6-8: *From the insurer’s perspective, securities borrowing transactions have a very different structure than securities lending transactions. Insurers have not, and do not anticipate, requesting the establishment of “conforming securities borrowing” programs with changes to RBC.*

Note 7: The guidance for a security borrowing could result with restricted asset reporting for both the collateral provided (if not cash collateral) as well as for the reinvested borrowed securities that the reporting entity has sold. NAIC staff notes that this could be a double hit of restricted asset charges and recommends comments on paragraph 94 of SSAP No. 103 on the elimination of the restricted asset requirement for the assets received from the sale of the borrowed security. It is noted that the reporting entity would already have a liability recognized to return the borrowed security to the counterparty.

See interested parties’ comments above.

Note 8: For security borrowing transactions, it is identified that both a receivable and payable from the counterparty could be recognized. A receivable - if cash was originally provided as collateral for the return of the cash - and a payable - if the reporting entity sold the borrowed security for the obligation to return the security. This dynamic could result in a netting of the transactions under SSAP No. 64. If netted, then the regulators would not be able to identify these aspects within the financial statements, but the provisions that permit netting under SSAP No. 64 (legal right to offset) may be present.

See interested parties’ comments above.

Repurchase Agreements***

Repurchase agreements, by definition, are agreements in which a reporting entity sells a security and simultaneously agrees to repurchase the security or a substantially similar security at a stated date and price. Repurchase agreements are functionally similar to securities lending. These transactions are generally captured as “secured borrowings” due to the requirement to repurchase the security transferred but could qualify as “sale” transactions. As very few (if any) are captured as sales under statutory accounting, this assessment will only focus on those captured as “secured borrowings.”

Reporting entities can operate on both sides of repurchase agreements. If the reporting entity is selling a security and receiving cash (cash taker), it is considered a repurchase agreement. If the reporting entity is buying a security and providing cash (cash provider) it is considered a reverse repurchase agreement. SSAP No. 103 is explicit that only short-term repo agreements (with a stated short-term maturity date of 365 days or less) are allowed as admitted assets. Long-term repo agreements (with maturity dates in excess of 365 days) are nonadmitted.

There is no current concept for a “conforming repurchase agreement” and incorporating this concept, allowing for a lower RBC charge, was the request of the ACLI to the Life RBC Working Group.

4. **Repurchase Agreement – Reporting Entity Sells Security and Receives Cash / Collateral**

- a) Reporting entity (cash taker) retains sold security on book and codes it as a restricted asset. This would remain an asset of the reporting entity unless the reporting entity defaults under the terms of the secured borrowing agreement. If that occurs, the reporting entity would derecognize the asset and eliminate the obligation to return the cash collateral per subparagraph (b).
- b) Reporting entity recognizes cash received and obligation to return cash. (If security collateral is received, it is off-balance sheet unless that collateral is sold by the reporting entity. If sold, the reporting entity recognizes the proceeds from the sale and the obligation to return the collateral to the repo counterparty.) This process for security collateral received under a repurchase agreement is different from securities lending. Under security lending, if collateral received can be sold or repledged, even if it is not sold or repledged, the collateral is reported on balance sheet with an obligation to return. The disclosure guidance for repurchase agreements varies significantly from securities lending transactions as Schedule DL does not apply to repurchase agreements. As such, for repurchase agreements, there is no detail that identifies collateral held when the collateral can be sold/repledged. *(Note 9)*
- c) For repurchase agreements the reporting entity should receive proceeds (collateral) with a fair value of at least 95% of the fair value of the sold security. So, if the security has a FV of \$100, proceeds (collateral) of \$95 is required. If the FV of the proceeds (collateral) is not sufficient, then nonadmittance of the “sold” security for the amount of the shortfall is required. So, if only 93% collateral was received, the security “sold” but still reporting on-book would only be admitted for \$98 with nonadmittance of \$2. *(Note 10)*

The Restricted Asset / RBC Impact is as follows:

- a) The retained asset (sold to the counterparty) is still on the investment schedule and should continue to receive the RBC asset (C-1) charge. It should also be coded as a restricted asset as “subject to repurchase agreements” and captured in GI 26.21. This would then be captured in LR017 on line 3, “subject to repurchase agreements” and would receive a 0.0126 RBC charge. Under SSAP No. 103, repo agreements must be short-term to be admitted. If the repo agreement extends beyond 365 days, then the asset sold (retained on the book) would be identified as a nonadmitted asset.
- b) The cash proceeds (collateral) would be recorded as cash and flow through on Schedule E - Part 1 - Cash to LR012 with a .0039 RBC charge. If the cash is used to acquire

another security, then the acquired security would be reported on the investment schedules and flow through to RBC accordingly based on the investment.

Note 9: Due to the similarities in overall function between securities lending and repurchase agreements, NAIC staff supports consistent accounting, reporting and disclosures. NAIC staff recommends expanding Schedule DL to capture repurchase agreements, and a reassessment of the repurchase agreement disclosures to determine whether the level of detail should be retained.

Interested parties' response: Extending Schedule DL to repurchase agreements makes sense only for any future “conforming repo” programs that have segregated assets in the reinvestment portfolio. In certain cases, repo can be used for secured borrowing whereby the cash is used for alternative purposes and not explicitly reinvested. Since industry is no longer requesting the establishment of conforming repo programs, we believe that Schedule DL should not be extended to repo programs at this time.

Note 10: The same concept issues exist for the nonadmittance of reported securities under repo transactions than what exist under the securities lending transactions. Under current guidance, if the fair value of the sold security was to increase, more proceeds (collateral) is required or the sold security is subject to nonadmittance. If collateral was reinvested, the comparison would have to be based on the original collateral received and not the reinvested collateral. Also, there is the question on nonadmittance when the collateral received still covers the BACV of the sold security.

Interested parties' response (similar to Note 3): One salient feature of securities lending and repurchase agreement transactions is that exchange of variation margin covers the differences that emerge over time between the original market value of the security lent and the original market value of the collateral received. The margining process therefore aligns the **market value** of the collateral received – plus or minus any variation margin – with the **market value** of the security lent. This market structure obviates the need for regulators separately to test the market value of original collateral received in comparison with the fair value of the security lent. Additionally, repo funding proceeds may be used for purposes outside of a reinvestment portfolio which results in a lack of asset base to test against for nonadmittance.

Reverse Repurchase Agreement – Reporting Entity Buys Security and Provides Cash / Collateral

- a) Reporting entity (cash provider) acquires security from counterparty but does not report the security on their investment schedule. (The reporting entity would recognize the asset if the counterparty defaulted on the agreement.) (*Note 11*)
 - i. If the reporting entity sells the acquired security, the reporting entity would recognize the cash proceeds from the sale and an obligation to return the security to the counterparty. If the cash proceeds are reinvested, then the acquired investment would be on the applicable investment schedule.

- b) Reporting entity derecognizes the cash provided to acquire the security and recognizes a receivable for the cash return. This is captured as a short-term investment on Schedule E-2. If the reverse repo agreement was long-term, it shall be nonadmitted.
 - i. If the reporting entity provides security in exchange for the security (instead of cash), the security would remain on the reporting entity's investment schedules, coded as a restricted asset.
- c) For reverse repurchase agreements the reporting entity should receive securities with a fair value of at least 102% of the purchase price (cash or securities transferred). So, if the cost of the transaction is \$100, the reporting entity should receive securities worth \$102. *(Note 12)*

The Restricted Asset / RBC Impact is as follows:

- d) The acquired asset is not reported unless the counterparty defaults or unless the reporting entity sells the acquired assets. Unless one of these things occurs, there is no RBC impact for the acquired asset under a reverse repo. (If those transactions occur, then the RBC is determined by the resulting security reported on the investment schedule.)
- e) The receivable for the return of the cash collateral would be recorded as a short-term investment on Schedule E – Part 2 and flow through to LR012 with a .0039 RBC charge. This receivable would also be coded as restricted as an “asset subject to a reverse repurchase agreement” on GI 26.23. This would flow to LR017 line 6 and would receive a 0.0126 RBC charge. *Note 13*

Note 11: The SSAP No. 103 guidance for reverse repo transactions does not have an explicit nonadmittance component if the % threshold is not met. Clarification on what should occur if the adequate collateral is not received / retained is recommended. Additionally, it has been noted that there is no current guidance that assesses admittance based on the quality/type of collateral received. Under the current guidance, residuals or low-quality assets could be received and there is no documentation of this type of collateral for certain sec lending and repo programs. Even if these programs would not qualify as conforming, there is a question on whether admittance restrictions should exist based on the collateral received from the counterparty.

Interested parties' comments on Notes 11-13: In terms of general quality of collateral received in reverse repo transactions, we do not believe there should be regulatory restrictions on the type of collateral that is eligible to be received, other than it being a permitted investment for the reporting entity. The yield earned on the transaction and haircut charged reflects the quality of the collateral.

Maintenance of the collateralization threshold is governed by the legal document (MRA or MSLA) between the counterparties. While collateralization threshold is one of the criteria for a conforming securities lending program, there is no intention to establish conforming reverse repo programs. We believe that regulators should derive comfort on collateralization thresholds from the existing legal agreements between counterparties.

Note 12: SAP does not currently capture details on securities acquired upon the sale of the asset acquired under a reverse repo. The note disclosures only detail aggregate amounts.

See interested parties' comments on Notes 11-13 above.

Note 13: The guidance does not explicitly indicate that the short-term receivable recorded for reverse repurchase transactions should be coded as a restricted asset and taken to GI 26.23. However, as the restricted asset note detailed in SSAP No. 1 and GI 26.23 both capture “assets subject to reverse repurchase agreements,” this reference can only refer to the short-term receivable as there is no other asset reported on the books from the transaction. Assessment may be warranted on identification of restricted assets on reverse repurchase transactions.

Interested parties' comments: Interested parties do not believe that there is a cogent rationale for restricting the short term lending receivable. Other short-term lending receivables - CDs, CP and Short Term ABS – are not considered “restricted”. Nothing in these short term loans implies lack of exclusive control or encumbrances or third party interests prohibiting the insurer from using these short term loans (or the collateral obtained therefrom at 102% FMV or greater) to satisfy policyholder obligations.

Appendix A – “Conforming” Securities Lending Guidance from RBC Instructions

Line (1) Securities lending programs that have all of the following elements are eligible for a lower off-balance sheet charge:

1. A written plan adopted by the Board of Directors that outlines the extent to which the insurer can engage in securities lending activities and how cash collateral received will be invested.
2. Written operational procedures to monitor and control the risks associated with securities lending. Safeguards to be addressed should, at a minimum, provide assurance of the following:
 - a. Documented investment guidelines, including, where applicable, those between lender and investment manager with established procedure for review of compliance.
 - b. Investment guidelines for cash collateral that clearly delineate liquidity, diversification, credit quality, and average life/duration requirements.
 - c. Approved borrower lists and loan limits to allow for adequate diversification.
 - d. Holding excess collateral with margin percentages in line with industry standards, which are currently 102% (or 105% for cross currency loans).
 - e. Daily mark-to-market of lent securities and obtaining additional collateral needed to ensure that collateral at all times exceeds the value of the loans to maintain margin of 102% of market.
 - f. Not subject to any automatic stay in bankruptcy and may be closed out and terminated immediately upon the bankruptcy of any party.
3. A binding securities lending agreement (standard “Master Lending Agreement” from Securities Industry and Financial Markets Association) is in writing between the insurer, or its agent on behalf of the insurer, and the borrowers.
4. Acceptable collateral is defined as cash, cash equivalents, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and NAIC 1-designated securities. Affiliate-issued collateral would not be deemed acceptable. In all cases the collateral held must be permitted investments in the state of domicile for the respective insurer.

Collateral included in General Interrogatories, Part 1, Line 25.04 of the annual statement should be included on Line (1).

* * * *

Thank you for the opportunity to comment on the above items. Please feel free to contact either one of us if you have any questions or would like to discuss further.

Statutory Accounting Principles Working Group
December 16, 2024
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Sincerely,

D. Keith Bell

Rose Albrizio

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January 31, 2025

Mr. Dale Bruggeman, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
hut Street, Suite 1500
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RE: Interested Parties Comments on the Items Exposed for Comment by the Statutory
Accounting Principles Working Group with Comments due January 31st

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the following items that were exposed for comment by the Statutory Accounting Working Group (the Working Group) with comments due January 31st.

Ref #2023-28: Collateral Loan Reporting

The Working Group re-exposed this agenda item detailing the proposed reporting lines for Schedule BA and AVR. This item was re-exposed to allow for concurrent exposure with blanks proposal 2024-19BWG. Comments received by the Blanks (E) Working Group and the SAPWG will be reviewed collectively.

Interested parties have responded (responses are in *italics*) to the following elements for which feedback was requested during the exposure:

- 1) Should collateral loans backed by mortgage loans be included in the new collateral loan category, or should those continue to flow through the “Investments with the Underlying Characteristics of Mortgage Loans” permitted during the interim as the long-term resolution?

Interested parties believe the ‘Collateral Loans – Backed by Mortgage Loans’ Schedule BA subcategory should continue to flow through the “Investments with the Underlying Characteristics of Mortgage Loans” AVR category until a permanent solution is identified.

If captured in the new collateral loan AVR category, to what extent should the underlying characteristic lines detailing quality / past due / foreclosure status (AVR lines 38-64) be duplicated?

Interested parties believe there should be just 1 category in AVR for ‘Collateral Loans – Backed by Mortgage Loans’ and not bifurcate between quality / past due / foreclosure status. The accounting for Collateral Loans will be able to appropriately report the fair value of the underlying collateral.

- 2) What additional reporting lines (breakouts) of the proposed AVR categories are necessary to ensure appropriate look-through for RBC assessment purposes?

Interested parties believe no changes in the following breakouts are warranted at this time. We will actively engage in the RBC discussions with the appropriate NAIC Working Group on this issue.

As it relates to the corresponding Blanks Working Group exposure 2024-19BWG, we have requested a re-exposure / deferral to address this item which was exposed for the first time. Our question to the Working Group is: should Ref #2023-28 also be re-exposed / deferred to align these 2 items?

Ref #2024-10: SSAP No. 56 – Book Value Separate Accounts

During the NAIC Summer National Meeting, the Working Group exposed revisions to *SSAP No. 56—Separate Accounts*, as shown below as “2024 Summer National Meeting Exposed Revisions,” to allow for initial review and consideration of potential changes to update measurement method guidance and specify the process to transfer assets for cash between the general and book-value separate accounts. The Working Group also requested comments from regulators and industry on the noted questions, which are highlighted in grey in the exposure draft. This item was originally exposed with a longer comment period ending November 8, 2024, with the comment period extended to January 31, 2025. This item was not discussed in detail during the 2024 Fall National Meeting but is planned for discussion in the interim after that meeting, or during the 2025 Spring National Meeting.

Interested parties continue to support clarification of statutory accounting guidance for Book Value Guaranteed Separate Accounts. ACLI is very appreciative of the on-going dialogue with SAPWG and the IMR Ad Hoc Working Group and stands ready to continue working with the NAIC on this initiative.

ACLI would like to provide specific comments regarding existing SSAP 56 guidance and proposed changes to SSAP 56

The ACLI is in support of much of the exposed guidance updates. Particularly, we continue support for the proposed guidance for transfers between General Account and Separate Account (paragraphs 19 – 22). The ACLI previously provided a detailed presentation entitled “ACLI Derivative IMR Solution Proposal” (“ACLI Solution,” included as Appendix I) to the IMR Ad Hoc Working Group. Discussions of the ACLI solution at the NAIC Ad Hoc IMR WG were the impetus for this exposure. The exposed guidance updates to SSAP 56 largely reflect the findings from the ACLI Solution presentation and, should it be beneficial to regulators, the ACLI would appreciate the opportunity to present to the full SAPWG membership and any additional interested regulators.

While in support of much of the exposed guidance updates, the ACLI would like to further discuss some of the proposed guidance for Book Value Guaranteed Separate Accounts:

Paragraph 22 requires that all other transfers of assets between Separate Account and General Account, excluding those assets sales for cash transfers already described in Paragraphs 19 through 21, be recorded at fair value. In order to avoid any potential for diversity in practice, we believe guidance should be added clarify that IMR should be utilized for these transactions in a similar way to how IMR is utilized in the transfer for cash transactions. The ACLI recommends at minimum the addition of the following phrase (change highlighted in red): “Asset transfers that do not reflect sales for cash between the general account and separate account are subject to domiciliary state approval and shall be recorded at fair value **with gains and losses offset to IMR similar to asset sales for cash guidelines as detailed in Paragraphs 20 & 21...**”. Should it be decided that more detailed instruction be required, the ACLI would like to request some additional time to build out a more detailed proposal.

Paragraph 24 identifies the in-scope Separate Account population as “...*separate accounts that would qualify for separate account classification under U.S. GAAP...*”. We do not believe the direct reference to US GAAP regulation within the SSAP to be appropriate, especially as not all insurers perform U.S. GAAP filings and would not be sufficiently expert in U.S. GAAP Separate Account guidance. Language surrounding guaranteed separate accounts is already included in Paragraph 18. Rather than creating separate language to identify non-guaranteed separate accounts which do not require AVR, direct reference to a “population excluding that population identified in Paragraph 18 would both provide clarity without reference to U.S. GAAP guidance and provides inclusive language ensuring the entire population of separate accounts to fall in either bucket rather than risk any population that may not fall in either the U.S. GAAP standard or the Paragraph 18 standard.

Paragraphs 34.C.iii. and 39.F. appear to be seeking additional disclosure (within General Account and Separate Account filings, respectively) of the assets supporting book value separate accounts, as specific reference is made to product types identified as book value in Paragraph 18 (PRT and RILA). We believe this additional disclosure to be redundant to the Book Value column reporting in the Separate Account Asset Page, providing no additional detail or value to what has already been reported. While the ACLI recognizes that there is no prohibition of domicile approval of non-guaranteed book value separate account with Statutory guidance surrounding Plan/Memorandum of Operations process, we feel that proposed guidance within SSAP 56 Paragraph 25 eliminates that probability: “*Assets supporting separate account contracts where the insurer bears the risk of*

investment performance, which shall include all book value separate accounts...”. Due to the Paragraph 25 requirement that all book value separate accounts shall be in support of guaranteed separate accounts where the insurer bears the risk of investment performance, it is not probable that the Book Value column breakout within the Separate Account Assets page filing will include any population other than the Guaranteed population and thus cannot not diverge from the disclosures proposed in Paragraphs 34.C.iii. and 39.F. The ACLI requests that these disclosure requirements be removed from SSAP 56.

Once again, the ACLI appreciates the opportunity to provide comment and looks forward to continued dialogue and collaboration on Book Value Separate Account guidance. If you have any questions regarding this letter, please do not hesitate to contact us.

Ref #2024-16: Repacks and Derivative Investments

On December 17, 2024, the Working Group exposed proposed annual statement instructions, as shown in the exposure draft under “December 2024 Proposed Revisions to Annual Statement Instructions” to clarify that held debt securities that are sold to an SPV and then reacquired reflecting the addition of derivative or other components shall be reported as a disposal and reacquisition in the investment schedules. With this exposure, the Blanks (E) Working Group was requested to expose a blanks proposal sponsored by the Statutory Accounting Principles (E) Working Group at the 2024 Fall National Meeting.

Interested parties have no comments on this item.

Ref #2024-20: Restricted Asset Clarification

On November 17, 2024, the Working Group moved this item to the active listing categorized as a SAP clarification and exposed revisions illustrated in the recommended changes to SSAP No. 1 as well as corresponding proposed revisions to the Annual Statement instructions/template for the restricted asset disclosure in Note 5L to specify how Modco and FWH assets reported within a ceding company’s financial statements shall be reported. The exposed revisions also include a new disclosure to identify whether Modco/FHW assets are pledged by the ceding entity as well as expanded disclosures to detail differences between what is reported in the restricted asset note and what is in the general interrogatories.

Interested parties appreciate the opportunity to comment on this item after it was re-exposed for comment by the Working Group during the NAIC Fall National Meeting in Denver.

We have split our comments below based on the section of instructions they refer to, following feedback comments related to the overall exposure.

General Feedback

Interested parties note that the instructions for SSAP No. 1, Note 5L, General Interrogatories (GI), and Risk Based Capital (RBC) do not indicate which values should be used for each of the

disclosures (i.e., Book Adjusted Carrying Value (BACV), collateral amount, Fair Value). As such, we recommend that BACV be used for all disclosures to ensure consistency.

For example, in Note 5L, columns 8 & 9, Total Admitted/Nonadmitted Assets are reported using BACV, as the assets would appear in the Assets page under the Admitted and Nonadmitted Assets columns. In lines b and c, *Collateral held under security lending agreements* and *Subject to repurchase agreements*, may be reported as collateral amounts to match the General Interrogatory (GI). Combining BACV and collateral amounts could be misleading to the reader.

Interested parties recommend that changes to the *NAIC Accounting Practices and Procedures Manual* (AP&P manual) be made concurrent with any Blanks and RBC instruction updates to ensure that all reporting is consistent.

SSAP No. 1

We have no comment on the changes in SSAP No. 1 – *Accounting Policies, Risks & Uncertainties and Other Disclosures* other than the clarification of expected reporting values.

Notes to the Financial Statements - 5L

5L(1)

- Interested parties note that instructions are not included for the new columns and rows or the newly required reconciliation. Therefore, we recommend instructions be added to the Restricted Assets section.
- We note that this section still has line o titled: *Total restricted assets*, but the new chart shows that the total is now line r. We recommend instructions be updated with the new line titles.
- We note that changes to SSAP No. 1's requirements would also require Note 5L be updated for Health and Property & Casualty companies, which have slightly different formats than Life.

Illustrations to the Financial Statements - 5L

5L(1)

- The exposure should clarify what happens if assets are pledged and may show up as restricted assets in another row.
- Interested parties recommend the removal of the reference to SSAP No. 1 Paragraph 23.c from the Restricted Assets Category in lines o-q.
- We would like to confirm that line o should exclude collateral received from security lending and repurchase agreements as these items are already included in lines b-f. We recommend clarification language to call out the exclusions.

5L(2)

- Question: Is the amount of total assets pledged under derivative contracts supposed to be on the new line (*Amount of Total pledged under derivative contracts*) and not included above

the current line “Total (c)”)? If so, why would we need to remove that line from the new total line?

- We recommend that the new Total Excluding Derivatives include a formula showing it is Total (c) less Amt of total pledged under derivative contracts.
- We recommend Staff Note be included as a subnote to the table or included in the Note 5L instructions.

✓ **Note: The amount of pledged under derivative contracts should agree to Schedule DB and agree to what is subtracted from the life RBC formula.**

5L(4)

- Interested parties would like clarification if the new Collateral/Modco/FWH Columns are independent of each other or are Modco/FWH subsets of the collateral amount.
- We note that the subnotes for Columns 3 and 4 were not updated and still state the formula is column 1 / Asset page. Column 1 refers to all data for BACV. The columns will need to be renumbered (i.e., 1.1 Collateral; 1.2 Modco; 1.3 FWH) and/or the subnotes for j and t would be updated.
- We note that row j currently should be column total lines, but the headers for the Separate Account (SA) section were added to the total line instead of a new row. We recommend a new line be added for the SA section headers. Line t should be numerical values rather than column headers.
- We would like to confirm that the “Recognized Obligation for Modco/FWH Assets” required in 5L(4)u and v are equal to the Modco/FWH reserve liabilities. If so, the language should be updated to read as such.

5L(4) – The second one should be renumbered to 5L(5)

- The exposure should clarify that this table applies only when the economic benefits received from pledging the asset stay with the cedant. Stated differently, if the benefit or cost associated with the restriction inures to the reinsurer, that would not be considered “purpose specific to the ceding insurance reporting entity.” We recommend a principle be developed to apply the intended rules to a wide array of transactions.

Life RBC (E) Working Group Referral

Interested parties propose the following changes be made to the referral to the Life RBC (E) Working Group.

Basis of Factors

When the default risk in modified coinsurance (MODCO) and other reinsurance transactions with funds withheld is transferred, this transfer should be recognized by reducing the RBC for the ceding company and increasing it for the assuming company. **In the event that the entire asset credit or variability in statement value risk associated with the assets supporting the business reinsured is not transferred to the assuming company for the entire duration of the reinsurance treaty, the RBC for the ceding company should not be reduced. For clarity, if the Modco/Funds Withheld reinsurance agreement asset held as of the year-end date has been used as a pledged asset concurrently with the**

pledged asset being included as a Modco/Funds Withheld reinsurance agreement asset for any purpose specific to the ceding insurance reporting entity at any time during the year, the RBC for the ceding company shall not be reduced. For example, if the Modco/Funds Withheld reinsurance agreement asset held as of the year-end date was the collateral in a securities lending, repurchase, or FHLB transaction executed for the benefit of by the ceding entity at any time over the year concurrently with the pledged asset being included as a Modco/Funds Withheld reinsurance agreement asset, then the reporting entity cannot assert that they have transferred the asset risk or variability and RBC shall not be reduced. In situations where the economic benefit received from pledging the assets inure to the reinsurer throughout the duration of the reinsurance treaty, the cedant is allowed to reduce its RBC for those assets.

Ref #2024-21: Investment Subsidiaries

On November 17, 2024, the Working Group moved this item to the active listing and exposed this concept agenda item requesting comments on options to clarify accounting guidelines and resulting reporting impacts for investment subsidiaries.

As background, investment subsidiaries are often used by insurers as operationally efficient investment vehicles and also may be used for various legal reasons (e.g., reinsurance transactions). Using a separate legal entity to own certain types of investments may be a lot more efficient than having the insurer own the assets outright. For example, insurers may use an investment subsidiary to own residential mortgage loans. This asset type usually requires the issuance of a high volume of loans to achieve the appropriate economies of scale so that the investment is cost-effective. Insurers may create a separate legal entity to allow for licensing to purchase loans in every state and that will engage a mortgage loan servicer to administer and service all the loans. Additionally, when insurers establish an investment subsidiary in the form of a trust with a national bank as trustee, the national bank trustee is either explicitly exempted from state lending licensing requirements or entitled to federal preemption from state lending license requirements. Using an investment subsidiary in this case would allow the insurance company to invest in large volumes of residential mortgages without significant burden on internal resources and internal operations while holding a capital charge on the underlying mortgages that is commensurate with the risk of each underlying mortgage loan.

With the background above, following are our comments to the potential actions included in the exposure draft.

1. Proposal No. 1: Revisions to SSAP No. 97 to incorporate statutory accounting guidance for SCAs that hold assets on behalf of the reporting entity and affiliate (investment subsidiaries)

Interested parties agree with including guidance in SSAP No. 97 to address the following items:

- a. The definition of an investment subsidiary from Schedule D should be brought over into SSAP No. 97.

- b. Interested parties agree that clarification should be added on the accounting for these investments. We understand that these investments are to be reported using an equity method of accounting with U.S. GAAP audited financial statements required for admissibility. There is a current lack of clarity on how to apply the “imputed value” requirement in the investment subsidiary definition. There is inconsistency in practice as to whether the underlying investments are adjusted from a U.S. GAAP value to a U.S. SAP value in instances where U.S. GAAP and U.S. SAP differ from an investment valuation perspective. If the intent is for the investment subsidiary’s assets to be recorded with a carrying value equal to what would be recorded if the assets were held directly by the insurer, more clear guidance should be included in SSAP No. 97 as to how this rule is intended to be applied.
- c. There should be clarification that in no instance the RBC charges applied to the underlying assets can be more beneficial than if the assets were held directly by the insurer. This should address the Working Group’s concern regarding investment subsidiaries that own bonds that do not meet the new principles-based definition and would require an SVO designation for reporting. Interested parties also request clarification in the RBC instructions that the applicable charges be applied to the accounting basis used to determine the carrying value of the investment subsidiary.

2. Proposal No. 2: Sponsor Blanks proposals to capture new investment Schedules or perhaps expansions to existing investment schedules, to detail the underlying assets held within an investment subsidiary

Interested parties believe that having to include a listing of each underlying asset of the investment subsidiary will take away some of the operational efficiency that is gained by having the investment subsidiary own the underlying assets. If this is a “must have” for the Working Group, perhaps we can work together on the most efficient way to provide the data. See additional suggestions under item 3 below.

3. Proposal No. 3: Referrals to Capital the Capital Adequacy (E) Task Force and related RBC Working Groups to incorporate details that allow regulators to verify the RBC calculation for the underlying assets in investment subsidiaries

Interested parties agree with providing transparency for RBC purposes. Since listing each asset individually may take away some of the benefits of creating an investment subsidiary, perhaps the assets can be provided by groupings that match AVR/RBC schedules similar to the industry’s recent response on the funds withheld assets exposure. Another option may be to include detail in a note to the financial statement that would be less onerous than including it in the actual Investment schedules.

In addition to providing responses above to the specific actions detailed in the Exposure Draft, interested parties would like to provide additional comments as follows:

1. We understand from the exposure draft that the concept of an investment subsidiary is intended to be limited to Schedule D common stock and preferred stock investments. However, it is not clear to us why the concept cannot be extended to investments in subsidiaries that are legally structured as limited partnerships (LPs) or limited liability companies (LLC). The legal form of the entity should not impact whether a subsidiary meets the criteria for investment subsidiary reporting as the accounting and reporting would follow substance over form. In fact, we understand that insurance law in some states already allows the concept of an investment subsidiary to be applied to any legal entity. For example, state statutes modeled on the NAIC Holding Company System Regulatory Act refer to investment subsidiaries as “entities organized as corporations, partnerships, associations, joint stock companies, trusts, unincorporated organizations that are engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer.” We understand that this would require some changes to Schedule BA to add a specific line item for investment subsidiaries, which will require additional work and new AVR/RBC mapping. Another option could be to require all investment subsidiaries, regardless of legal form, to be reported on Schedule D.
2. There are entities that are not legally structured as either a corporation or LP/LLC. However, the equity they issue is more akin to a common stock investment in a corporation than it is to an equity interest in an LP/LLC. This is the case for Delaware statutory trusts (DSTs). From a legal perspective, equity investments in these types of entities are treated similarly to common stock as investors in both DSTs and corporations have limited liability. Unlike LPs/LLCs, DSTs do not maintain separate capital accounts for each investor since the ownership interest is usually represented by shares/beneficial interests similar to ownership of equity in a corporation. Any new guidance added to SSAP No. 97 should allow for the reporting entity’s assessment of whether the equity investment in the investment subsidiary is more akin to common stock (Schedule D reporting) or more akin to LP/LLC interests (Schedule BA reporting). Each reporting entity needs to assess individual facts and circumstances for each investment vehicle to determine guidance applicability and the appropriate schedule in which to report the investment subsidiary.
3. Some trusts are established to hold assets such as mortgage loans that allow for direct reporting on Schedule B. We understand that this is done by including legal language in the trust certificates that specifically state that ownership in the trust represents a participation in each mortgage loan owned by the Trust. In these instances, the insurer has an undivided interest in each mortgage loan and it has the same rights as the lender of record with all proceeds from the loans as well as foreclosure rights being pari-passu with the lender of record. We believe that since ownership in the trust in this instance represents a participation in each loan as defined in SSAP No. 37, these loans are Schedule B eligible assets and are outside of the scope of the investment subsidiary guidance.

Ref #2024-22: ASU 2024-01, Scope Application of Profits Interest and Similar Awards

On November 17, 2024, the Working Group moved this item to the active listing and exposed revisions, as shown in the exposure draft, to adopt with modification *ASU 2024-01 Compensation—Stock Compensation (Topic 718), Scope Application of Profits Interest and Similar Awards* within *SSAP No. 104—Share-Based Payments*.

Interested parties have no comments on this item.

Ref #2024-23: Derivative Premium Clarifications

On November 17, 2024, the Group moved this item to the active listing, categorized as a SAP clarification, and exposed this agenda item proposing revisions to *SSAP No. 86—Derivatives* and the annual statement instructions to ensure consistent terminology for derivative financing premiums and to further clarify that derivative premium costs shall not be recognized as a realized gain/loss.

After discussion with NAIC staff, interested parties suggest that the Ref #2024-23: Derivative Premium clarification be captured in the discussion of Ref #2024-15: ALM Derivatives.

Ref #2024-24: Medicare Part D - Medicare Prescription Payment Programs

On November 17, 2024, the Working Group moved this item to the active listing, categorized as a SAP clarification, and exposed tentative *Interpretation (INT) 24-02: Medicare Part D Prescription Payment Plans* as well as minor edits to *INT 05-05: Accounting for Revenues Under Medicare Part D Coverage*, as described above. The Working Group directed notice of the exposures to the Health Insurance (B) Committee and Health Risk-Based Capital (E) Working Group. In addition, NAIC staff were directed to coordinate on the annual statement blanks proposals and to develop disclosures for future discussion.

Interested parties support the comment letter submitted by AHIP and BCBSA.

Ref #2024-25: SSAP No. 16 Clarifications

On November 17, 2024, the Working Group moved this item to the active listing, categorized as a SAP clarification, and exposed revisions to *SSAP No. 16—Electronic Data Processing Equipment and Software* to clarify the references to the U.S. GAAP Accounting Standards Codification (ASC).

Interested parties agree with the updated references in this item.

Ref #2024-27: Issue Papers in the Statutory Hierarchy

On December 17, 2024, the Working Group moved this item to the active listing as a SAP clarification and exposed revisions, as shown in the exposure draft, to classify issue papers in Level 5 of the statutory hierarchy.

Interested parties raised the issue of the placement of Issue Papers in the statutory hierarchy in our previous comment letter of September 27, 2024, where we suggested that Issue Papers be recognized as authoritative guidance and included in either Level 2, or alternatively Level 4, in the statutory hierarchy of authoritative guidance. Because Issues Papers frequently have more accounting guidance rather than reporting guidance, we suggested first Level 2 as this would place issue papers higher in the hierarchy than the annual statement instructions (Level 3) which is arguably more appropriate.

Level 4 specifically includes the preamble as authoritative guidance and paragraph 45 of the preamble states, “While it is not intended that there be any significant differences between an underlying issue paper and the resultant SSAP, if differences exist, the SSAP prevails and shall be considered definitive.” This part of the preamble puts the guidance in an SSAP above the guidance in an Issue Paper if a difference exists between the two, which we agree is appropriate. However, there are instances where there is no guidance in an SSAP and the underlying Issue Paper has either a detailed discussion or specific guidance that is on point for an accounting issue that a preparer or auditor is researching. As mentioned in our prior comment letter, examples include feeder funds related to the new principles-based bond definition (PBBB) and superseded US GAAP OTTI impairment guidance that is still applicable for statutory accounting but is not codified within the SSAPs).

The current exposure draft recommends that Issue Papers be included in Level 5 of the statutory hierarchy as “nonauthoritative guidance” which includes “Accounting textbooks, handbooks and articles.” We believe this is inappropriate as the guidance in Issue Papers is the result of the deliberative process used by the Working Group and the Accounting Practices and Procedures Task Force to identify appropriate statutory accounting guidance and practices, expose draft guidance for comment, receive public comment, and deliberate a final Issue Paper that is and should be maintained as part of the process for developing authoritative statutory accounting practices and procedures. In short, the Issue Papers are the product of an iterative, open process that become part of the documented discussion of statutory accounting guidance by the Working Group, industry, and others. We believe this should result in Issue Papers being placed in Level 4.

Ref #2024-28: Holders of Capital Notes

This agenda item has been prepared in response to the direction of the Working Group during the 2024 Fall National Meeting with the adoption of INT 24-01: Principles-Based Bond Definition Implementation Questions and Answers. With the adoption of the INT, and the guidance for reporting certain debt securities as capital notes in scope of SSAP No. 41—Surplus Notes, industry identified that slight revisions may be necessary to reflect the capital note distinctions. The Working Group directed NAIC staff to work with industry in this review and identifying necessary changes.

From the initial review and working with industry, revisions have been proposed to address the following specifically for capital notes:

1. Incorporate a definition/reference to the INT for capital notes.

2. Clarify the admittance restrictions.
3. Clarify the guidance for NAIC designations.
4. Update the impairment guidance to refer to capital notes.

In addition to these items, it was identified that an existing disclosure for surplus notes, which requires disclosure of any holder of 10% or more of an SEC-registered surplus note, is likely an extensive administrative burden, may be difficult to complete, and as a narrative disclosure only (not data-captured), is likely not often utilized. From a review of the disclosure, it predates the issuance of SSAP No. 41—Surplus Notes, and there are questions as to how a disclosure of certain holders of SEC-registered notes would be purposeful or used. NAIC staff has proposed to eliminate this aspect of the disclosure but retain the disclosure focusing on surplus notes with affiliates. NAIC staff requests feedback on whether this disclosure should be retained. Interested parties reviewed this exposure and have the following comments.

Interested parties appreciate the attempted clarification in the exposure regarding paragraph 9a as this paragraph was a point of confusion during interested parties' pre-exposure review of SSAP No. 41. Even with the proposed changes, there is still confusion surrounding this paragraph. More specifically, do the state law admission limits discussed pertain to ownership related to an individual company, affiliates, an aggregate equity limit or something else? As noted in the NAIC Staff Note, it is not generally characteristic of the SSAPs to detail provisions used in state limitations. As a result, absent further clarification and/or a compelling rationale from regulators as to the purpose of having such guidance in SSAP No. 41, interested parties would support the deletion of this paragraph if determined appropriate by regulators in response to the question asked of them in the NAIC Staff Note.

Interested parties are also supportive of the proposed changes to paragraph 21 as not only is this language likely not purposeful or used but it also not readily obtainable for issuers if at all. Relatedly, the disclosure in paragraph 18c includes the following to be disclosed for as long as the surplus notes are outstanding:

Holder of the note, or if public, the names of the underwriter and trustee, with the identification on whether the holder of the surplus note is a related party per SSAP No. 25 – Affiliates and Other related Parties.

Interested parties believe this disclosure can also be deleted as: 1) the holder of the note, is duplicative of the proposed deletion in paragraph 21, is likely not purposeful or used and not readily obtainable 2) the names of the underwriter and trustee are likely not purposeful or used, and 3) any surplus note for which the holder is a related party would appear to be captured in paragraph 21 which is not being deleted. If a distinction is being made between related party and affiliate, maybe that could be clarified within paragraph 21 and thus allow the deletion of paragraph 18c.

Interested parties do not believe it is appropriate for capital notes to be nonadmitted in the event the regulatory authority halts principal or interest payments as suggested in paragraph 9b. Mechanisms

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already exist to appropriately reduce capital such as the carrying value of NAIC designations of 3 through 6 capital notes are reported as the lesser of amortized cost or fair value in paragraph 11 and proposed impairment guidance in paragraph 16 recording an impairment down to fair value.

A wide range of scenarios may exist in regard to regulator authority cancelling coupons and/or writing off par value. Typically, a cancellation of a coupon would cause a down grade and likely an impairment decision. Carrying the capital note at fair value (which is generally readily available in the market) is more suitable than non-admitting the remaining fair value of a capital note. During 2009, several bank issuers agreed with their EU regulators on cancelling coupons for 24 months. If held, many of these hybrid securities recovered and ultimately were called by the issuer at par value. Further, nonadmitting an asset that may have a significant fair value would work to incentivize companies to sell at depressed prices, ultimately hurting policyholders, rather than holding the capital note for a potential recovery.

* * * *

Thank you for the opportunity to comment on the above items. Please feel free to contact either one of us if you have any questions or would like to discuss further.
Sincerely,

D. Keith Bell

Rose Albrizio

cc: Interested parties
NAIC staff

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 24-02T: Medicare Part D Prescription Payment Plan

Drafting Note: Tracked changes reflect BCBSA/ AHIP recommended revisions to February 25, 2025, exposure which are exposed until March 5, 2025, to allow for 2025 Spring National Meeting discussion.

INT 24-02T Dates Discussed

November 17, 2024; February 25, 2025

INT 24-02T References

Current:

- SSAP No. 47—*Uninsured Plans*
- SSAP No. 54—*Individual and Group Accident and Health Contracts*
- SSAP No. 66—*Retrospectively Rated Contracts*
- SSAP No. 84—*Health Care and Government Insured Plan Receivables*
- INT 05-05: *Accounting for Revenues Under Medicare Part D Coverage*

INT 24-024T Issue

1. The Inflation Reduction Act of 2022 introduced changes to Medicare Part D, which is the voluntary outpatient prescription drug program (Part D), including a new program to offer Part D enrollees the option to pay -their out-of-pocket Part D prescription drug costs through monthly payments over the course of the plan year instead of paying the full amount upfront at the pharmacy counter. This program, known as the Medicare Prescription Payment Plan (MPPP), is effective on January 1, 2025.

2. The purpose of this interpretation is to provide statutory accounting and reporting guidance for aspects of the MPPP. This interpretation specifically addresses the MPPP components of Medicare Part D and does not intend to alter the guidance in *INT 05-05: Accounting for Revenues Under Medicare Part D Coverage*, which offers high-level accounting guidance on the current Medicare Part D program.

MPPP Program Overview

3. The MPPP requires all Medicare prescription drug plans (Part D plan sponsors), including both standalone Medicare prescription drug plans and Medicare Advantage plans with prescription drug coverage, to offer ~~its~~ enrollees the option to pay their out-of-pocket prescription drug costs through monthly payments to the Part D plan sponsor over the remainder of the plan year, as opposed to paying the full amount upfront to the pharmacy.

4. Part D plan enrollees who elect to participate in the MPPP (MPPP participants) will pay \$0 to the pharmacy for covered Part D drugs. Instead, the Part D plan sponsor is required to fully pay the pharmacy the total of an MPPP participant's applicable out-of-pocket amount and the Part D plan sponsor's portion of the payment in accordance with Part D prompt payment requirements. Subsequently, the Part D plan sponsor will bill the MPPP participant monthly for any cost-sharing incurred while enrolled in the MPPP.

5. ~~MPPP participants~~ will not reduce total out-of-pocket costs for participants' prescription drug purchases for a plan year-. The MPPP simply spreads MPPP participants' out-of-pocket Part D costs into monthly payments over the remaining term of the plan year which may help some to better manage their monthly cash flow.

6. Unlike other existing aspects of Medicare Part D, which involve funds due from the federal government for which payment is effectively assured, MPPP installment balance recoverables are due from individual MPPP participants. Consequently, Part D plans may pay pharmacies for MPPP participants' out-of-pocket pharmacy claim costs, but some amounts billed to the MPPP participants might be uncollectible. That could occur when an MPPP participant does not pay the full outstanding balance after the required grace period. This raises statutory accounting concerns regarding potential nonadmittance of overdue amounts and impairment of unpaid outstanding recoverables from MPPP participants.

7. To help cover potential uncollectible balances, the Centers for Medicare and Medicaid Services (CMS) allows Part D plan sponsors to include an estimate for MPPP related losses in their plan bids. However, for the initial years, Part D plan sponsors lack directly relevant prior experience in estimating the MPPP program's potential for uncollectible amounts.

8. The government is responsible for the estimated MPPP losses to the extent they are included in plan bids by Part D plan sponsors. Part D plan sponsors thus receive additional premium revenue from the government, which helps to cover uncollectible balances from MPPP participants. Part D plan sponsors face pricing/underwriting risk relating to the prescription needs of enrollees and may inaccurately estimate the amounts of uncollectible balances to include in plan bids. In addition, there are risks that the costs of uncollectible amounts and other aspects of implementing the MPPP will vary from amounts that had been factored into plan bids.

MPPP Program Requirements for Unpaid Balances

9. Under the MPPP, Part D plan sponsors take on the risk for uncollectible balances not covered by the plan bid. The program rules prohibit or limit many of the common methods used to mitigate loss from uncollectible MPPP balances. Examples of such prohibitions or limitations include the following:

- a. **Late Fees, Etc.** – Under the MPPP, late fees, interest payments, or other fees, such as for different payment mechanisms, are not allowed.
- b. **Billing and Payment Procedures** – Part D plan sponsors can design their own billing and payment procedures for the MPPP. However, they must prioritize payments towards Part D plan premiums to avoid an enrollee losing their Part D coverage. This rule applies when it is unclear if an enrollee intended a submitted payment to cover their outstanding Part D plan premium or their MPPP balance.
- c. **Pharmacies Not Responsible for Balances** – Participation in the MPPP is considered an arrangement between the Part D plan sponsor and the MPPP participant. Pharmacies are not responsible for losses attributed to the uncollectibility of MPPP participants' balances or for collecting unpaid balances from the MPPP participant on the Part D plan sponsor's behalf.

- d. **Termination of Participation** – A Part D plan sponsor must terminate an enrollee’s participation in the MPPP if the enrollee fails to pay their monthly billed amount. An MPPP participant will be considered to have failed to pay their monthly billed amount only after a required grace period of at least two months. The Part D plan sponsor cannot terminate an enrollee from the Part D plan for nonpayment of any of their MPPP billed amounts. Part D plan sponsors must continue billing amounts owed under the program in monthly amounts up to the maximum monthly cap based on the statutory formula for the remaining duration of the plan year after an enrollee has been terminated.
- e. **Reinstatement of Enrollees** - Part D plan sponsors must reinstate terminated MPPP participants if the individual demonstrates good cause for failure to pay the program billed amount within the grace period and pays all overdue amounts billed.
- f. **Preclusion from Subsequent Enrollment** - A Part D plan sponsor may prevent an individual from opting into the MPPP program in a subsequent year if the individual owes an overdue balance to that Part D plan sponsor or to another Part D plan sponsor with the same parent organization. In other words, an individual who owes an overdue MPPP balance to a Part D plan sponsor cannot be barred from enrolling in the MPPP in a subsequent year through a different Part D plan sponsor that does not have the same parent organization.
- g. **Compliance with Federal and State Laws** - Part D plan sponsors (and any third parties ~~with whom that~~ Part D plan sponsors contract) collecting unpaid balances related to the program must follow other applicable federal and state laws and requirements, including those related to other types of payment plans, credit reporting, and debt collection.

Medical Loss Ratio

10. The current Public Health Act outlines how to calculate medical loss ratio (MLR) rebates, which are generally based on a comparison of incurred health claims and quality improvement activities to premium revenue, considering various factors and adjustments, all as prescribed by CMS. SSAP No. 66—*Retrospectively Rated Contracts* provides disclosures related to the MLR. The CMS MLR requirements are separate from the statutory accounting reporting requirements for the MPPP. ~~However, statutory accounting which differences from CMS requirements~~ create the need ~~to for~~ report differencing adjustments between them in the annual statement *Supplemental Health Care Exhibit*.

11. According to the CMS guidance, the losses related to uncollectible MPPP participants’ balances are considered for MLR purposes as part of the Part D plan sponsor’s administrative expenses. CMS guidance thus excludes losses attributed to uncollectible MPPP participants’ balances from the numerator of the MLR calculation, which this is consistent with CMS’ treatment in the MLR of other administrative expenses incurred by Part D sponsors. The CMS guidance states that the additional premium revenue attributable to the estimates of MPPP uncollectible amounts included in the Part D plan sponsor plan bids are included in the MLR calculation denominator.

Drafting Note: The MPPP program considers uncollectible recoverables from MPPP participants as incurred plan administrative costs and does not include these amounts in the MLR numerator, so reporting guidance for other adjustments to the Supplemental Health Care Exhibit will be needed. Such reporting revisions are not addressed in this interpretation but would be anticipated to be in the annual statement reporting revisions submitted to the Blanks (E) Working Group.

INT 24-02T Discussion**Statutory Accounting and Reporting Considerations for MPPP**

12. The Working Group reached the following tentative consensus for MPPP statutory accounting and reporting guidance. In addition, Appendix 1 illustrates some basic journal entries which help to show the intended financial statement results.

Recoverables from MPPP Participants

13. Recoverables from MPPP participants shall be accrued and reported as an asset on the asset page in the line for *Health care and other amounts receivable*, when the related payment is made by the Part D plan sponsor to the pharmacy for the out-of-pocket costs incurred on behalf of the MPPP participant.

14. Current recoverables from MPPP participants, meaning those that are less than and up to 90 days overdue, are admitted assets to the extent that they comply with the guidance in this interpretation. Recoverables from MPPP participants are also subject to impairment analysis.

15. Uncollected MPPP recoverables more than 90 days overdue are nonadmitted. The due date for aging of the MPPP recoverables shall follow the program billing guidelines.

16. If a recoverable from an MPPP participant is fully collected, ~~it will~~ the amount received by the Part D plan sponsor will equal the corresponding out-of-pocket payment it made for a pharmaceutical claim ~~payment~~. In those cases, there will not be an income statement impact regarding claims (or claims adjusting expenses).

Impairments

17. Uncollected recoverables from MPPP participants are subject to an impairment analysis which shall be assessed using the evaluation guidelines in *SSAP No. 5—Liabilities, Contingencies, and Impairment of Assets*. However, when uncollectible recoverables from MPPP participants are written off, the expense shall be reflected as an incurred Medicare Part D prescription drug claims in the statutory income statement.

Out-of-Pocket MPPP Pharmacy Payments

18. When the Part D plan sponsor pays out-of-pocket drug claims to the pharmacy, a claims expense, a contra claims expense, and a contra claims expense account recoverable are recorded. The contra claims expense, or similar mechanism, is recorded to prevent initial claims expense recognition in the income statement so there is zero initial impact to the income statement. This is because there is an amount recoverable from the MPPP participant, and to the extent that the MPPP participant pays in full, there should not be any claims recognition. This is analogous to the handling of anticipated pharmaceutical rebates or anticipated subrogation recoveries.

19. If the MPPP participant pays the amount due in full, there will be no income statement impact in claims expenses resulting from the Part D plan sponsor's payment of the MPPP participants out-of-pocket costs to the pharmacy. This is because the MPPP participant's subsequent monthly payments to the Part D plan sponsor have fully offset the initial pharmacy payments. In such cases, the MPPP recoverable will be reduced as payments are collected and there would be no income statement impact.

20. If the MPPP participant's balance ~~is~~ not repaid in whole or in part, there will be an income statement impact to reflect ~~paid~~ claims expense for the uncollectible MPPP balances which have been evaluated ~~for~~ as ~~impairment~~ and written off. Since there is a recoverable from the MPPP participant there should be no income statement amount for an incurred claim until the related MPPP recoverable is written off as uncollectible based on ~~impairment~~ analysis.

21. When the recoverable from the MPPP participant is evaluated as ~~for~~ ~~impairment~~, the contra claims expense is decreased by the amount of the MPPP recoverable that is written off. This results in the incurred Medicare prescription claim reported reflecting the uncollectible recoverable from MPPP participants for statutory reporting. The premium to offset these claims is included in Medicare premium bids, so reporting the uncollectible MPPP amounts as losses allows the statutory accounting loss ratio to reflect incurred Medicare Part D prescription costs, including the MPPP uncollectible amounts which have been impaired and written off.

Administrative Costs

22. Other costs, e.g., those incurred by Part D plan sponsors in implementing and administering the MPPP program and related collections, are included in the administrative expenses of the Part D plan sponsor and are not included in the claim expenses or claim adjustment expenses.

MLR Reporting Difference

~~23.~~ Note that the statutory reporting of the written off (impaired) recoverable from MPPP participants in Medicare prescription claims is different from CMS treatment of such amounts in the MLR. The CMS requires Part D plan sponsors to report losses from impairment write-offs ~~of~~ uncollectible recoverables from MPPP participants as administrative amounts and, thus, such losses are excluded from the numerator in the CMS MLR. For loss ratios determined under statutory accounting, and pursuant to the guidance in this INT 24-02, such amounts are reported as claims expense and included in the numerator of the loss ratio. s. These administrative amounts are included in the denominator of the MLR by CMS.

24.23.

INT 24-02T Status

25.24. This interpretation is tentatively effective March 30, 2025.

26.25. Further discussion is planned.

Appendix 1 - Illustrative Journal Entries

INT 24-02

[BCBSA/ AHIP comments on exposure](#)

| Medicare Prescription Payment Plan Scenarios | | | |
|--|------------|------------|------------|
| | Claims | Receivable | Cash |
| Initial entries for all scenarios | | | |
| <i>Assumed to have been recorded by the Part D plan sponsor prior to Scenarios 1 – 3.</i> | | | |
| DR Claims Expense <i>To represent claims expenses incurred on behalf of the MPPP participant.</i> | \$ 2,000 | | |
| CR Cash <i>To represent the \$2,000 paid by the Part D plan sponsor to the pharmacy on behalf of the MPPP participant.</i> | | | \$ (2,000) |
| DR Healthcare Receivable <i>To represent the amount due to the Part D plan sponsor from the MPPP participant, which the MPPP participant must pay over the policy term.</i> | | \$ 2,000 | |
| CR Claims A/R (contra-claims expense) <i>To be reported within the claims expense line, essentially a contra-claims expense, and represents the amount due to the Part D plan sponsor from the MPPP participant which the MPPP participant must pay over the policy term. This offsets the claims expense amount, so results in a current net \$0 impact on the income statement, but both the DR and CR on the income statement are in claims expense.</i> | \$ (2,000) | | |
| Scenario 1 - The MPPP participant pays their full amount of \$2,000 to the Part D plan sponsor. | | | |
| DR Cash <i>To record receipt of the MPPP participant's payment in full.</i> | | | \$ 2,000 |
| CR Healthcare Receivable <i>The net income statement impact remains at \$0, because the original claims expense was offset by the contra-claims expense (Claims A/R), and since the full \$2,000 was received from the MPPP participant, there are no further income statement journal entry impacts.</i> | | \$ (2,000) | |
| Scenario 1 Net result on Financial Statements | | | |
| | \$ - | \$ - | \$ - |
| Scenario 2 - The MPPP participant pays \$1,500 out of the \$2,000 to the Part D plan sponsor and does not pay the remaining \$500. | | | |
| DR Cash | | | \$ 1,500 |

Appendix 1- Illustrative Journal Entries

INT 24-02

| | | | |
|---|-----------------|-------------|-------------------|
| <i>To record receipt of MPPP participant partial payment of outstanding balance.</i> | | | |
| CR Healthcare receivable <i>To reduce MPPP participant receivable for amounts paid.</i> | | \$ (1,500) | |
| DR Claims A/R (contra-claims expense) <i>To represent the write-off of the receivable. This results in the Part D plan sponsor having a total income statement impact debit to claims expense of \$500, represented as the initial \$2,000 claims expense for the out-of-pocket paid to the pharmacy by the Part D plan sponsor, offset by the \$1,500 received from the MPPP participant.</i> | \$ (500) | | |
| CR Healthcare receivable <i>To write-off the remaining uncollectible amount as impaired</i> | | \$ (500) | |
| | | | |
| Scenario 2 Net result on Financial Statements | \$ 500 | \$ | \$ (500) |
| | | | |
| | | | |
| Scenario 3 - The MPPP participant does not pay any of the \$2,000 owed to the Part D plan sponsor. | | | |
| DR Claims A/R (contra-claims expense) <i>To represent the write-off of the amount anticipated to be paid by the MPPP participant. This results in the income statement impact to the Part D plan sponsor being a debit of \$2,000, for the amount paid to the pharmacy by the Part D plan sponsor and not reimbursed by the MPPP participant.</i> | \$ 2,000 | | |
| CR Healthcare receivable <i>To represent the write-off of the \$2000 receivable.</i> | | \$ (2,000) | |
| | | | |
| Scenario 3 Net result on Financial Statements | \$ 2,000 | \$ - | \$ (2,000) |