

Statutory Accounting Principles (E) Working Group
Hearing Agenda
March 16, 2024

ROLL CALL

Dale Bruggeman, Chair	Ohio	Judy Weaver/Steve Mayhew	Michigan
Kevin Clark, Vice Chair	Iowa	Doug Bartlett	New Hampshire
Sheila Travis/Richard Russell	Alabama	Bob Kasinow	New York
Kim Hudson	California	Diana Sherman	Pennsylvania
William Arfanis/Michael Estabrook	Connecticut	Jamie Walker	Texas
Rylynn Brown	Delaware	Doug Stolte/David Smith	Virginia
Cindy Andersen	Illinois	Amy Malm/Elena Vetrina	Wisconsin
Melissa Gibson/Stewart Guerin	Louisiana		

NAIC Support Staff: Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden

Note: This meeting will be recorded for subsequent use.

The Statutory Accounting Principles (E) Working Group met in regulator-to-regulator session on Mar. 7. This regulator session was pursuant to the NAIC Open Meetings Policy paragraph 3 (discussion of specific companies, entities or individuals) and paragraph 6 (consultations with NAIC staff related to NAIC technical guidance of the *Accounting Practices and Procedures Manual*). No actions were taken during these meetings as the discussion previewed to preview the Fall National Meeting agendas and discussed other items with NAIC staff pursuant to the NAIC open meeting policy.

REVIEW AND ADOPTION OF MINUTES

1. Fall National Meeting (Attachment 1)
2. Jan. 10, 2024 (Attachment 2)
3. Jan. 29, 2024, E-vote (Attachment 3)
4. Feb. 20, 2024 (Attachment 4)

REVIEW of COMMENTS on EXPOSED ITEMS

The following items are open for discussion and will be considered separately.

1. Ref #2022-14: New Market Tax Credits
2. Ref #2023-25: ASU 2023-03 – SEC Updates
3. Ref #2023-27: ASU 2023-04 – SEC Updates – Crypto
4. Ref #2023-29: IMR / AVR Preferred Stock
5. Ref #2023-30: Admissibility Requirements of Investments in Downstream Holding Companies
6. Ref #2023-31: Model 630 Mortgage Guaranty Insurance
7. Ref #2024-01: Bond Definition – Debt Securities Issued by Funds

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2022-14 (Wil)	New Market Tax Credits (NMTC)	5 – Agenda Item 6 – SSAP No. 93R 7 – SSAP No. 94R 8 – Other SSAPs	Comments Received	IP – 2

Summary:

On Dec. 1, 2023, the Working Group exposed revisions to *SSAP No. 34—Investment Income Due and Accrued*, *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, *SSAP No. 93—Low-Income Housing Tax Credit Property Investments*, and *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits*. On Jan. 29, the Working Group re-exposed, via e-vote, revisions to the SSAPs effected by the NMTC project with an accelerated comment period ending Feb. 9. These revisions were made in response to discussions with interested parties and regulators, specifically on certain aspects of the paragraph 18 admittance test (now referred to as the Prospective Utilization Assessment).

Interested Parties' Comments:

The Working Group exposed, through an e-vote, further revisions to SSAP No. 93R and SSAP No. 94R as part of the New Market Tax Credits project. Revisions to SSAP Nos. 34, 93R, and 94R included minor consistency and clarifying revisions and one notable revision to SSAP No. 93R. That revision was made in response to concerns raised by interested parties over the paragraph 18 admittance test (now referred to as the Prospective Utilization Assessment). The Prospective Utilization Assessment was revised to remove the initial assessment of the current portion of unallocated tax credits and replaced with language that required companies to perform the Prospective Utilization Assessment only if certain conditions exist. The drafts with these revisions were exposed with an accelerated comment period of February 9, 2024, to allow the Working Group the opportunity to adopt Ref #2022-14 at the Spring National Meeting.

Interested parties appreciate the opportunity to comment on the revisions exposed by the Working Group for SSAP No. 93 - *Low Income Housing Tax Credit Property Investments* and SSAP No. 94 - *Transferable and Non-Transferable State Tax Credits*. We agree with the proposals and the most recent changes that were made in response to interested parties' feedback.

We understand that the Working Group would like feedback on the reporting categories that should be used to report tax credit investments in Schedule BA once the SSAP No. 93 changes are adopted. We have the following suggestions and comments with item No. 5 below addressing an inconsistency noted in the standard and not related to reporting categories:

1. Currently, Schedule BA has reporting sections for Guaranteed, Non-Guaranteed, and All Other Low Income Housing Tax Credit (LIHTC) investments. The RBC charges are driven by these categories and are 0.14%, 2.6%, and 15%, respectively. One suggestion could be to keep the same categories but remove all references to LIHTC tax credit investments if the expectation is that the RBC charges will remain the same regardless of tax credit program type.
2. Another suggestion is to keep the same categories, but to have two separate sections in each category, for debt and equity investments since the standard now scopes in all tax credit investments regardless of whether they are in debt or equity form. Since these investments are of high credit quality regardless of program, interested parties would expect that the RBC charges would stay the same as currently reported for LIHTC investments (as detailed in No. 1). We are happy to have further discussions on this topic understanding that it is not the Working Group, but rather Capital Adequacy that would make the ultimate decisions related to the RBC charge for these investments.

3. Another item to consider is that some tax credit investments in debt security form receive an NAIC designation from the SVO. Whether a specific reporting category will be needed for these investments depends on decisions made regarding RBC charges for these investments and whether they will be the same as they are currently for LIHTC investments. Therefore, interested parties would need more information on the expected RBC framework in order to provide more concise feedback on the appropriate reporting lines.
4. Interested parties also noted that the current annual statement instructions for LIHTC investments may need some clarity as there is diversity in interpretation as to what the instructions require. For example:
 - a. Under the non-guaranteed section, there is a reference to “level of leverage below 50%”. It is not clear why this requirement is included and whether this requirement is for the insurer to determine whether debt in the structure is below 50% of the total capitalization of the entity or how to classify the investment for accounting and reporting if leverage is higher than 50%. Interested parties note this requirement is not included in SSAP No. 93 and currently resides only in the Annual Statement instructions.
 - b. The “all other” category refers to non-qualifying LIHTC investments. Interested parties are not clear on what non-qualifying means. It may be helpful to include a definition of non-qualifying and ensure it is reflected in SSAP No. 93 as opposed to residing solely in the annual statement instructions. If non-qualifying relates to an investee’s qualifications to receive expected tax credits, then reporting entities will probably have to go to paragraph 28 to do an impairment analysis if the investee no longer qualifies and therefore, the tax credits will not emerge. However, paragraph 3 states that any investments that do not fall in the scope of SSAP No. 93 are to be accounted and reported consistent with the SSAP that addresses their underlying investment structure. If that is the case, then “non-qualifying” investments would not be reported in this section of Schedule BA and removal of the category may need to be considered.
5. Paragraphs 8 and 10 of the SSAP No. 93 exposure state that any expected residual value is to be excluded from the value of the investment that is amortized under the proportional amortization method. However, example 2 states that there is a residual value of \$1 thousand, but the full investment of \$100 thousand is being amortized. If the intent is to exclude residual value from the balance that is to be amortized, we suggest that the example be modified to reflect this requirement.

Recommendation:

NAIC has updated Example 2 in SSAP No. 93 accordingly to address the comments from interested parties.

NAIC staff recommends that the Working Group adopt the exposed revisions, updated for the corrections to example 2 in SSAP No. 93, and the revisions, which are as exposed, to SSAP No. 34, SSAP No. 48, and SSAP No. 94R. The effective date of the revisions is January 1, 2025.

NAIC staff also recommends that the Working Group direct staff to:

- 1. Sponsor a blanks proposal on the annual statement reporting categories for tax credit investment RBC by using the suggestion from the interested parties comment letter to maintain the same categories but without reference to LIHTC (bullet 1) and to also update/clarify the instructions accordingly.**
- 2. Send a referral to the Life Risk Based Capital Working Group to inform them of the planned reporting line changes, which may indicate review of the RBC charges as different categories of tax credits will be reported in the form.**
- 3. Direct staff to prepare a draft Issue Paper to document the discussions and revisions for agenda item 2022-14.**

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-25 (Wil)	ASU 2023-03– SEC Updates	9 – Agenda item	No Comments	IP – 4

Summary:

On Dec. 1, 2023, the Working Group exposed revisions to *Appendix D—Nonapplicable GAAP pronouncements* which reject ASU 2023-03, *Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 120, SEC Staff Announcement at the March 24, 2022, EITF Meeting, and Staff Accounting Bulletin Topic 6.B, Accounting Series Release 280—General Revision of Regulation S-X: Income or Loss Applicable to Common Stock*, which amends SEC paragraphs to update various aspects of SEC guidance on stock compensation and equity-based payments.

Interested Parties' Comments:

Interested parties have no comments on this item.

Recommendation:

NAIC staff recommends that the Working Group adopt revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject ASU 2023-03 as not applicable to statutory accounting. This item is proposed to be rejected as not applicable as the ASU is specific to amendment of SEC paragraphs, which are not applicable for statutory accounting purposes.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-27 (Jake)	ASU 2023-04 – SEC Updates – Crypto	10 – Agenda item	No Comments	IP – 4

Summary:

On Dec. 1, 2023, the Working Group exposed revisions to *Appendix D—Nonapplicable GAAP pronouncements* which reject ASU 2023-04, *Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121, which amends SEC paragraphs from the Accounting Standards Codification for the issuance of SEC Staff Accounting Bulletin (SAB) 121* which provides guidance on accounting for obligations to safeguard Crypto-Assets an entity holds for its platform users.

Interested Parties' Comments:

Interested parties have no comments on this item.

Recommendation:

NAIC staff recommends that the Working Group adopt revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject ASU 2023-04, *Amendments to SEC Paragraphs* as not applicable to statutory accounting. This item is proposed to be rejected as not applicable as the ASU is specific to amendment of SEC paragraphs, which are generally not applicable for statutory accounting purposes.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-29 (Julie)	IMR / AVR Preferred Stock	11 – Agenda item	Comments Received	IP – 4

Summary:

On December 1, 2023, the Working Group exposed revisions to the annual statement instructions to remove the guidance that directs all preferred stock to be allocated between IMR/AVR based on NAIC designation, and clarify that perpetual preferred stock, which includes the SVO-Identified Preferred Stock ETFs, shall be reported as equities through AVR. This exposure proposed revisions to the annual statement instructions only but is in line with the intent to clarify IMR/AVR reporting guidance. Pursuant to the long-term project, it is anticipated that guidance will ultimately be reflected in *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*.

Interested Parties' Comments:

Interested parties agree with the exposure but also question whether mandatorily redeemable preferred stock should be treated similarly.

Recommendation:

NAIC staff recommend that the Working Group adopt the exposed revisions to the annual statement instructions with modification to also reference mandatory convertible preferred stock (regardless of perpetual or redeemable status) as noted by interested parties' comments. These revisions will exclude all mandatory convertible preferred stock regardless of if redeemable or perpetual from the interest maintenance reserve and require reporting through asset valuation reserve. The guidance in *SSAP No. 32R—Preferred Stock* requires a fair value measurement for all mandatory convertible preferred stock investments.

The proposed revisions to reference mandatory convertible are minimal and reflected as shaded text in the guidance below. (The agenda item details the full scope of exposed revisions. Only the sections revised are shown below.)

Interest Maintenance Reserve

Include realized capital gains and losses on:

Exchange Traded Funds (ETFs) as listed on the SVO Identified Bond ETF List (thereafter subject to bond IMR guidelines). include any capital gains (losses) realized by the Company, whether from sale of the ETF or capital gains distributions by the ETF. If the ETF is removed from either SVO ETF list, the ETF is reported and treated as common stock, with any capital gains/(losses) excluded from the IMR. (Mandatory convertible preferred stocks (regardless of if redeemable or perpetual) and investments on the SVO-Identified Preferred Stock List are captured as perpetual preferred stock and treated as equity investments, with gains and losses excluded from IMR.)

Asset Valuation Reserve

Line 2 – Realized Capital Gains (Losses) Net of Taxes – General Account

Report all realized non-interest-related (default) and equity capital gains (losses) (which includes, but is not limited to, common stock, perpetual preferred stock, mandatory convertible preferred stocks (regardless of if redeemable or perpetual) and SVO-Identified Preferred Stock ETFs), net of capital gains tax, applicable to the assets in each component and sub-component. All realized capital gains (losses) transferred to the AVR are net of capital gains taxes thereon. Exclude all interest rate-related capital gains (losses) from the AVR.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-30 (Jason/ Robin)	Admissibility Requirements of Investments in Downstream Holding Companies	12 – Agenda item	Comments Received	IP – 5

Summary:

On Dec. 1, the Working Group exposed revisions to the existing guidance in *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, paragraph 24, to update the language in paragraph 24 on audits and admissibility to better align with guidance in paragraphs 26 and 27 on the look-through methodology. This agenda item is the result of regulator comments. The current SSAP No. 97, paragraph 24 guidance states “if the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required for the downstream noninsurance holding company and its SCA and non-SCA investments in order for the investment in the downstream noninsurance holding company to be classified as an admitted asset.”

The issue with the existing paragraph 24 guidance is that as it summarizes other guidance it could be perceived as contradicting guidance provided in paragraph 27 related to the “look through” process. This process allows admitting audited investments in entities owned by an unaudited downstream noninsurance holding company SCA entity.

Interested Parties’ Comments:

Interested parties note that paragraph 24 references paragraph 23, and paragraph 23 addresses the admissibility requirements of the downstream holding company and its SCA entities. As a result, we recommend that the proposed wording be modified slightly as follows:

“If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required ~~for the downstream noninsurance holding company and its SCA and non-SCA investments~~ in order for the investment in the downstream noninsurance holding company or individual SCAs to be classified as an admitted asset.”

Recommendation:

NAIC staff recommends that the Working Group adopt the exposed revisions to *SSAP No. 97—Subsidiary, Controlled and Affiliated Entities*, paragraph 24, with the edit proposed by interested parties as illustrated below. After review, NAIC staff agrees with interested parties that the exposed addition of the phrase “or individual SCAs” is not necessary.

Proposed edits to SSAP No. 97 for adoption:

24. If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required. ~~for the downstream noninsurance holding company and its SCA and non-SCA investments~~ in order for the investment in the downstream noninsurance holding company be classified as an admitted asset.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-31 (Robin)	Model 630 Mortgage Guaranty Insurance	13 – Agenda item	No Comments	IP – 5

Summary:

On Dec. 1, 2023, the Working Group exposed the project to address updates to the *Mortgage Guaranty Insurance Model Act* (Model #630). Model #630 is excerpted in *Appendix A-630 Mortgage Guaranty Insurance* which is referenced in *SSAP No. 58—Mortgage Guaranty Insurance*. In addition, SSAP No. 58 includes some excerpts from Model #630 regarding contingency reserves. The project will review the updated model for potential updates to SSAP No. 58 and Appendix A-630, with a focus on accounting and reporting issues. With the exposure, the Working Group requested comments on the proposed effective date.

Interested Parties' Comments:

Interested parties have no comments on this item.

Recommendation:

NAIC staff recommends that the Working Group direct NAIC staff to develop updates to SSAP No. 58 and Appendix A-630 for future Working Group discussion. Because there are less than ten mortgage guaranty insurers, and they are concentrated in the states of North Carolina, Pennsylvania and Wisconsin, NAIC staff will work with the affected states on the proposed effective date of the AP&P updates.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2024-01 SSAP No. 26R (Julie)	Bond Definition – Debt Securities Issued by Funds	14 – Agenda item	Comments Received	IP – 5 PineBridge – 8

Summary:

On January 10, 2024, the Working Group exposed revisions to both *SSAP No. 26R—Bonds* and the draft issue paper for the principles-based bond project, to clarify the guidance for debt securities issued by funds. The revisions intended to eliminate the rules-based provision, in which SEC registration for a fund is required, and instead permit debt securities issued by funds to be classified as issuer credit obligations if the fund represents an operating entity. The revisions included guidance to assist in determining whether a fund represents an operating entity, and the issue paper guidance continued to identify that collateralized fund obligations (CFOs) and other similar structures would be required to be assessed as asset-backed securities to determine if they qualify for bond reporting.

Interested Parties' Comments:

Interested parties appreciate the overall goal behind the refinements proposed in the exposure to provide consistency between funds, whether registered or not, for classification as ICOs. Interested parties propose one small change to the new language included within paragraph 12.

12. Likewise, distinguishing between a fund that represents an operating entity and a securitization vehicle that represents an ABS Issuer can involve similar ambiguity. Both types of entities may hold only passive investments and issue debt securities for which ultimate recourse upon default is to those investments. However, a clear distinction can generally be made by evaluating the substance of the entity and its primary purpose:

- a. A fund representing an operating entity has a primary purpose of raising equity capital and generating returns to its equity investors. **Marginal Prudent** amounts of debt may be issued to

fund operations or produce levered returns to equity holders. However, this is in service to meeting the fund's primary equity-investor objective. For 1940-Act registered closed-end funds (CEFs) and business development corporations (BDCs), debt securities issued from the fund in accordance with permitted leverage ratios represent debt issued by operating entities and qualify as issuer credit obligations.

- b. In contrast, an ABS Issuer has a primary purpose of raising debt capital and its structural terms and features serve to support this purpose. Perhaps most distinctively, in addition to the characteristics detailed in Paragraph 8, the contractual terms of the structure generally define how each cash flow generated by the collateral is to be applied. There is generally little discretion afforded to the manager/servicer of the vehicle and any discretion that is allowed is narrowly defined in the contractual agreements. This hardwiring of debtholder protections allows for the issuance of higher amounts of leverage than would be possible for a fund representing an operating entity, further supporting the entity's primary purpose of raising debt capital.

Changing “marginal” to “prudent” may seem rather innocuous. However, marginal seemingly connotes something very small, whereas prudent seems to be more in line with the spirit of the principle-based language within paragraph 12. Interested parties believe with this slight change, along with paragraph 12 and its primary purpose distinctions, the principle-based bond standard will achieve the stated goal of consistency for like funds.

PineBridge Investments Comments:

We appreciate the opportunity to comment on your exposure regarding clarifications to SSAP No. 26R on the treatment of debt securities issued by funds.¹ We support your effort to “eliminate inconsistent application between similar funds and to better align with the recently adopted definition of residual tranches through the Bond Project.” We would like to share some facts to support the consistent statutory treatment for securities issued by business development companies (BDCs), closed-end funds (CEFs), and private funds.

First, as you noted in the exposure memo, that substance over form is an important principle. Under SSAP No. 26R, operations such as BDCs and CEFs, regardless of being public (or listed) or private (or unlisted), their debt issuances are treated as issuer credit obligation (ICOs). “Substance” rather than “form” dictates the ICO designation of BDCs and CEFs.

Second, we see similar substance across BDCs, CEFs, and many private funds regarding the following:

- There is a related operating entity whose primary purposes are managing assets and raising capital.
- All have a well-defined and hard-wired payment priority in the legal documents. For example, in an event of default, contractually BDCs and CEFs need to redeem senior debt first and then pay off junior obligations. Furthermore, BDCs and CEFs often have additional asset coverage tests; and if a coverage test is breached, mandatory redemption would take place such that senior debt is paid first to de-lever the capital structure. This is also how the “hardwiring” works in many rated feeder funds.
- There is no special purpose vehicle (SPV) within a typical fund construct.

Finally, rating agencies’ private fund methodologies and analysis align with those for CEFs and corporate bonds (both designated as ICO) in several ways:

- Multiple rating agencies apply their CEF methodology to rate private funds.
- Rating levels and the amount of debt issued by these funds intend to right-size the risks embedded in the investment vehicle, including but not limited to prudent leverage, portfolio mix, liquidity, legal construction, and management quality.
- Funds ratings typically do not carry a structured finance (SF) subscript and are generally assigned by the Financial Institutions Group within rating agencies, not their structured finance team. An entity level anchor rating is assigned first, and that is then notched up/down to reflect security level seniority or structural

¹ SAPWG 2024-01, Bond Definition – Debt Securities Issued by Fund, <https://content.naic.org/sites/default/files/inline-files/24-01%20-%20PBBD%20-%20SEC%20Funds.docx>

subordination. Typically, rating agencies would rate no more than three-classes of debt issued by a fund. This framework aligns well with how rating agencies analyze corporate bonds overall.

In summary, we support private funds with prudent leverage to be designated as ICO, consistent with the SSAP No. 26R classification for BDCs and CEFs.

Recommendation:

NAIC staff recommend that the Working Group re-expose this item with a distinct request for regulators and industry to provide comments that address the following:

- 1) Proposed language that assists with clarifying the scope of guidance and to the types of debt securities issued by funds that should be considered as operating entities.**
- 2) Proposed language to better define the extent of debt that may be issued to fund operations.**

These elements are requested as informal feedback and questions received during the exposure period has indicated that some companies have interpreted the proposed guidance to permit debt issued from feeder funds to be classified as issuer credit obligations (ICOs). **As the guidance was not intended to eliminate the assessment of feeder funds as asset-backed securities (ABS) to determine whether the debt instrument qualifies for bond reporting, particularly when the underlying feeder fund investments are equity interests, adoption of this item is not recommended as exposed.** With the detailed review and assessment that has occurred throughout the development of the bond project, NAIC staff cautions against moving forward with edits that could be interpreted in a way that results with application of the guidance differently than intended.

The intent of these exposed revisions was to simply eliminate differences that could occur in bond classification for debt issued by funds that have the purpose of raising equity capital that are seemingly identical except for SEC registration status. However, if the interpretation of the draft guidance could be expanded to include other fund designs, including feeder funds or funds that have the primary purpose of raising debt capital, then retention of the SEC-registration requirement shall be retained to ensure that the guidance is not inappropriately extrapolated. The intent of re-exposure is to provide opportunity for regulators and industry to suggest proposed guidance that will clearly distinguish between debt issued by funds that should qualify as ICOs and debt issuances from feeder funds, CFOs, or other ABS structures. It is also noted that the interested parties' proposed term for "prudent" is not sufficient for identifying the limitations of debt that can be issued by SEC-registered entities. Further suggestions on appropriate terms or descriptions are requested during the exposure period.

Staff Note: The principles-based bond definition reflected in SSAP No. 26R—Bonds is adopted and effective Jan. 1, 2025. The adopted guidance, which limits the classification to ICO to "bonds issued by business development corporations, closed-end funds, or similar operating entities, in each case registered under the 1940 Act," is the authoritative guidance. The Working Group does not need to act to restrict the guidance for registered funds. Until/unless the Working Group elects to adopt guidance that permits debt issued by non-registered funds, then all debt issued by non-registered funds shall be assessed as ABS.

The comment letters are included in Attachment 15 (8 pages).

The following items will be in a separate packet.

1. Ref #2019-21: SSAP No. 21R—Principles-Based Bond Project [Comments pending - Hearing 2]
2. Ref #2022-12: Review of INT 03-02: Modification to an Existing Intercompany Pooling Arrangement
3. Ref #2024-06: Risk Transfer Analysis on Combination Reinsurance Contracts

Draft Pending Adoption

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3/16/24

Draft: 12/13/23

Statutory Accounting Principles (E) Working Group
Orlando, Florida
December 1, 2023

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met in Orlando, FL, Dec. 1, 2023. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Sheila Travis (AL); Kim Hudson (CA); William Arfanis (CT); Rylynn Brown (DE); Cindy Andersen (IL); Stewart Guerin and Melissa Gibson (LA); Judy Weaver (MI); Doug Bartlett and Pat Gosselin (NH); Bob Kasinow (NY); Diana Sherman (PA); Jamie Walker (TX); Doug Stolte (VA); and Amy Malm (WI).

1. Adopted its Oct. 31, Oct. 24, Oct. 23, Sept. 21, and Summer National Meeting Minutes

The Working Group conducted an e-vote that concluded Oct. 31 to expose agenda item 2023-23: *Residuals in Preferred Stock and Common Stock Structures*. The Working Group conducted an e-vote that concluded Oct. 24 to expose a tentative *Interpretation (INT) 23-04T: Life Reinsurance Liquidation Questions*.

During its Oct. 23 meeting, the Working Group took the following action: 1) adopted four agenda items; 2) heard comments and received Working Group direction on agenda item 2022-11: *Collateral for Loans*; and 3) discussed INT 23-04T.

During its Sept. 21 meeting, the Working Group took the following action: 1) heard comments and considered action on three items exposed during the Summer National Meeting; and 2) discussed agenda item 2023-22: *Actuarial Guideline 51 and Appendix A-010 Interaction*.

Additionally, the Working Group met Nov. 27 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) and paragraph 6 (consultations with NAIC staff related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings, to discuss the Summer National Meeting agendas.

Walker made a motion, seconded by Sherman, to adopt the Working Group's Oct. 31, (Attachment One-A), Oct. 24 (Attachment One-B), Oct. 23 (Attachment One-C), Sept. 21 (Attachment One-D) and Aug. 13 minutes (*see NAIC Proceedings – Summer 2023, Accounting Practices and Procedures (E) Task Force, Attachment One*). The motion passed unanimously.

2. Reviewed Comments on Exposed Items

A. Agenda Item 2019-21

Bruggeman directed the Working Group to agenda item 2019-21: *Principles-Based Bond Definition*. Julie Gann (NAIC) stated that during the Summer National Meeting, the Working Group exposed revisions to *Statement of Statutory Accounting Principle (SSAP) No. 21R—Other Admitted Assets* to provide guidance for debt securities that do not qualify as bonds, as well as to detail the accounting for residual tranches.

Gann stated that interested parties noted a disconnect between the guidance for residuals that is in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* and *SSAP No. 43R—Loan-Backed and Structured Securities*, and the proposed guidance in *SSAP No. 21R*, because of the different effective dates. She stated that

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this will be resolved after the SSAP No. 21 guidance becomes effective with references between the SSAPs. Gann stated that no comments were received on the guidance for the debt securities that did not qualify as bonds. However, comments were received on the measurement method for residuals. She stated that interested parties proposed two measurement options for residuals. One method proposed using servicer reports to identify what portion was interest and what portion was a return of principal. The other method was an effective yield with a cap method. She stated that the revised SSAP No. 21R guidance proposed to incorporate the effective yield with a cap method proposed by interested parties, slightly revised from what was detailed in the comment letter, but generally the same concepts, as well as a practical expedient to allow the cost recovery method. Gann stated that interested parties also made comments on the impairment guidance, which has also been included with the revised measurement method. She stated that NAIC staff recommend exposure of the revised SSAP No. 21R, with a shortened public comment period ending Jan. 22, 2024, as the *Schedule BA—Other Long-Term Invested Assets* reporting revisions are currently exposed by the Blanks (E) Working Group, and NAIC staff would like to consider adoption of this guidance prior to that adoption.

Gann stated that the Blanks (E) Working Group adopted the reporting to split *Schedule D, Part 1—Long-Term Bonds Owned* into two separate schedules as well as revisions to other investment schedules. Gann stated that she hopes to have training available to the public in January 2024.

Andrew Morris (Global Atlantic), on behalf of interested parties, stated that the new exposure appears to show alignment around the main concepts, which address both regulator concerns and interested parties' comments. He also stated that interested parties are looking forward to reviewing the revised exposure and working with NAIC staff and regulators over the next months.

Clark made a motion, seconded by Hudson, to expose the revisions to SSAP No. 21R, for a shortened public comment period ending Jan. 22, 2024. The motion passed unanimously.

B. Agenda Item 2022-12

Bruggeman directed the Working Group to agenda item *2022-12: Review of INT 03-02: Modification to an Existing Intercompany Pooling Arrangement*. Robin Marcotte (NAIC) stated that on Aug. 13, the Working Group re-exposed the intent to nullify INT 03-02. She stated that interested parties provided useful examples that were helpful and recommended the Working Group defer action and direct NAIC staff to continue working with interested parties on a proposal for discussion at the 2024 Spring National Meeting.

C. Agenda Item 2022-14

Bruggeman directed the Working Group to agenda item *2022-14: New Market Tax Credits*. Wil Oden (NAIC) stated that on Aug. 13, the Working Group exposed revisions to *SSAP No. 93—Low-Income Housing Tax Credit Property Investments* and *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits*. On Sept. 29, interested parties provided NAIC staff with a comment letter on the exposed revisions to SSAP No. 93 and 94R.

Oden stated this agenda item was drafted in response to the federal Inflation Reduction Act and subsequent issuance of *Accounting Standard Update (ASU) 2023-02: Investments—Equity Method and Joint Ventures*, which was drafted to provide U.S. generally accepted accounting principles (GAAP) guidance on the application of the proportional amortization method for federal income tax equity investments. Since the initial discussion documents circulated in 2022, the project has been expanded by broadening the scope of SSAP No. 93 to include any qualifying tax credit investment, regardless of structure, or the type of state or federal tax credit program.

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The project now also includes revisions to expand the scope of SSAP No. 94R to include both state and federal purchased tax credits.

Oden stated that on Sept. 29, comments were received from interested parties. Most of the interested parties' proposed revisions are shown in the discussion materials as tracked changes to the Fall National Meeting exposure drafts for exposure consideration. NAIC staff provided detailed responses to each interested party's comments in the Form A status section. He recommended that the Working Group expose additional revisions to SSAP No. 93 and SSAP No. 94R, as well as new proposed changes to *SSAP No. 34—Investment Income Due and Accrued* and SSAP No. 48.

Oden summarized some of the more significant proposed revisions to SSAP No. 93, SSAP No. 94R, SSAP No. 34, and SSAP No. 48. For SSAP No. 93, Oden stated that, at interested parties' request, a glossary of key terms was added, as well as a number of changes to the paragraph 18 admittance test. The effective date was also amended to be proposed as Jan. 1, 2025, applied prospectively without an option to early adopt. A new paragraph was added to the impairment section to provide guidance on tax credit programs, which allocate variable amounts of tax credits and additional disclosures for unused tax credits allocated from tax credit investments. For SSAP No. 94R, Oden stated that new language was added, which clarified that awarded tax credits, neither purchased nor allocated from an investment, were not within the scope of SSAP No. 94R. The effective date was also amended to be proposed to Jan. 1, 2025, applied prospectively with early adoption allowed. For SSAP No. 34, a new sentence was proposed to clarify that tax credits earned or purchased are not within the scope of SSAP No. 34. For SSAP No. 48, revisions were proposed to amend existing language to conform with the new tax credit investment revisions proposed in SSAP No. 93.

Oden noted that while not all of the interested parties' proposed revisions to paragraph 18 were included, NAIC staff intend to continue working with industry to address their concerns that the new guidance may not admit previously admitted tax credit investments. As a final note, Oden requested comments from state insurance regulators and industry on the annual statement reporting categories for tax credit investment RBC. The current RBC categories are low-income housing tax credit investment-specific and are mapped to the real estate grouping.

Bruggeman stated he had received a flowchart from NAIC staff, which would be provided to regulators at a later date to use when reviewing the proposed changes.

Lauren Tonetti (Nationwide) stated that the focus of the last round of comments were centered on the admittance test and concerns of how the new guidance may not admit previously admitted tax credits. She stated that Nationwide specifically suggested broadening the language to admit tax products that can be transferable or sold and look forward to working with NAIC staff further on this issue. She also acknowledged NAIC staff requests for comments on the annual statement and reporting categories for risk-based capital (RBC). She said Nationwide appreciates the raising of this issue and intends to take that back for discussion.

Walker made a motion, seconded by Sherman, to expose revisions to SSAP No. 34, SSAP No. 48, SSAP No. 93, and SSAP No. 94R. The motion passed unanimously.

D. Agenda Item 2023-14

Bruggeman directed the Working Group to agenda item *2023-14: SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*. Gann stated that the Working Group exposed this agenda item as a new statutory accounting principle (SAP) concept, with the intent to establish a long-term project to capture accounting

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guidance for asset valuation reserve (AVR) and interest maintenance reserve (IMR) in SSAP No. 7, but ultimately points to the annual statement instructions in accordance with the hierarchy. Gann stated that the SSAPs are the highest in the statutory hierarchy, so the accounting guidance should reside in the statements of statutory accounting principles. She stated that the Working Group exposed this for public comment and that the American Council of Life Insurers (ACLI) submitted a comment letter supporting this project, and interested parties concurred. She noted that this agenda item is a formality to direct NAIC staff to proceed with the long-term project, which has already started with meetings of the Interest Maintenance Reserve ad hoc group.

Bruggeman stated that the ad hoc group comprises Working Group members, Life Actuarial (A) Task Force members, and industry accountants and life actuaries.

E. Agenda Item 2023-15

Bruggeman directed the Working Group to agenda item *2023-15: IMR and AVR Specific Allocations*. Gann stated that the Working Group exposed this agenda item as a new SAP concept to remove guidance from the annual statement instructions that could direct items to go to IMR that could potentially reflect credit losses and not interest-related losses. She stated that this item proposed to focus on mortgage loans and debt securities. Gann stated that for the mortgage loan guidance, proposed revisions identify that any mortgage loan with evaluation analysis should go to AVR, regardless of if it were 90 days past due. She stated that with debt securities, the Working Group exposed guidance to include both the NAIC designation and the designation category and whether a security had gone down by more than one designation. Gann stated that language was incorporated to direct classification to IMR when an event had occurred that had not yet been reflected in a credit rating, or the NAIC designation, to make sure that those went to AVR. She stated that interested parties submitted detailed comments expressing opposition to the expansion of the NAIC designation and any NAIC designation category for this point in time. She stated that NAIC staff agree with maintaining the current guidance, which relies on the designation change at this time. She stated that interested parties also proposed revised wording on looking at acute credit events for those debt securities. She stated that interested parties did not submit comments on the mortgage loans. Gann stated that NAIC staff recommend adoption of the guidance, as revised from the interested parties, effective Jan. 1, 2024.

Mike Reis (Northwestern Mutual), representing the ACLI, stated support for the proposed changes and noted that the ad hoc group discussion has gone extremely well.

Malm made a motion, seconded by Kasinow, to adopt the revisions as drafted and as modified to reflect interested parties' comments with an effective date of Jan. 1, 2024 (Attachment One-E). The motion passed unanimously.

F. Agenda Item 2023-16

Bruggeman directed the Working Group to agenda item *2023-16: Schedule BA Reporting Categories*. Gann stated the Working Group exposed this agenda item as an SAP clarification to further define, for consistency purposes, the investments captured, in SSAP No. 48, as non-registered private funds, joint ventures, partnerships or limited liability companies (LLCs), or residual interests and reported based on the underlying characteristics of the assets. She stated that these are currently broken out by fixed income, common stock, and real estate. Gann stated that interested parties provided some generic comments regarding the expansion of these categories and that the Working Group is looking for comments on whether more specificity is needed to have consistency across industry. She stated that industry submitted a comment letter in opposition to the collapsing of the private non-registered fund category into the SSAP No. 48 reporting categories, which was a change that was exposed by the

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Blanks (E) Working Group as part of the Schedule BA reporting revisions. Gann stated that, technically, those two categories would fall within SSAP No. 48, although NAIC staff are not sure how a company would determine whether something goes in the private non-registered fund category versus the joint venture category. She stated that interested parties identified that there were certain structures, such as warehouse loans, that had been reported in the private non-registered fund category because they had the ability to report those as underlying mortgage loans, which would map appropriately through RBC. She stated that NAIC staff are still not supportive of keeping them separate. However, there is an agenda item in the meeting agenda to break out collateral loans, by underlying collateral type, which would allow those warehouse loans to be reported in a category with the underlying characteristics of mortgage loans, and then RBC can be considered for those to map correctly.

Andrew Morse (Global Atlantic) stated that interested parties have an initial comment on what is being exposed today in favor of the proposed changes that are part of this exposure and the related collateral loan exposure and expressed appreciation for a link to the discussion of RBC. He stated that what industry really cares about is that the newly created categories that may have an RBC impact, from SSAPs, Schedule BA, AVR, and RBC, are effective in the same period so that there is a smooth transition.

Clark made a motion, seconded by Sherman, to expose interested parties' proposed edits, noting that NAIC staff are not supportive of collapsing the private non-registered fund category into the SSAP No. 48 reporting category, with a shortened public comment period ending Jan. 22, 2024, to allow for coordination with the Blanks (E) Working Group's exposure for the Schedule BA categories. The motion passed unanimously.

G. Agenda Item 2023-17

Bruggeman directed the Working Group to agenda item *2023-17: Short-Term Investments*. Gann stated that the Working Group exposed revisions, as a new SAP concept, to further restrict the investments that are permitted for cash equivalent or short-term investment reporting, with an effective date of Jan. 1, 2025. She stated that under the bond definition, asset-backed securities (ABS) were removed from the short-term and cash equivalent reporting, which is also effective Jan. 1, 2025. Gann stated that this would mirror that effective date. She stated that interested parties had no comments on this item.

Gann stated that subsequent blanks reporting changes will be considered to modify the cash equivalent and short-term reporting lines. She noted that this item will contain revisions to further restrict the investments that are permitted to be included in cash equivalent or short-term investment reporting and will exclude all Schedule BA investments, mortgage loans, and collateral loans from *SSAP No. 2R—Cash, Cash Equivalents, Drafts and Short-Term Investments* reporting.

Weaver made a motion, seconded by Walker, to adopt the changes to SSAP No. 2R with an effective date of Jan. 1, 2025 (Attachment One-F). The Working Group directed NAIC staff to proceed with a corresponding annual statement blanks proposal so that the reporting lines for cash equivalents in short-term investments can be updated accordingly. The motion passed unanimously.

H. Agenda Item 2023-22

Bruggeman directed the Working Group to agenda item *2023-22: Actuarial Guideline 51 and Appendix A-010 Interaction*. Marcotte stated that on Aug. 13, the Working Group exposed revisions to *SSAP No. 54R—Individual and Group Accident and Health Contracts* to address an issue that was identified by the Financial Reporting and Solvency Committee of the Health Practice Council of the American Academy of Actuaries (Academy), which had

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observed some diversity in practice across issuers of long-term care insurance (LTCI). The agenda item, to clarify that gross premium evaluation under Appendix A-010 on health, individual, and group health reserving, and cash-flow testing under *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51), are both required if indicated. She stated that, in addition, the Working Group directed a formal notice of the exposure to the Long-Term Care Actuarial (B) Working Group, and the Valuation Analysis (E) Working Group. Marcotte stated that the exposed revisions were to SSAP No. 54R and included changes in an illustration. She stated that interested parties had no comments and that NAIC support staff for the working groups that received notice of the exposure have noted that those working groups do not intend to provide formal comments. She recommended adopting this agenda item as exposed.

Hudson made a motion, seconded by Walker, to adopt exposed revisions to SSAP No. 54R to clarify that gross premium valuation (under Appendix A-010) and cash-flow testing (under AG 51) are both required, if indicated (Attachment One-G). The motion passed unanimously.

I. Agenda Item 2023-23

Bruggeman directed the Working Group to agenda item *2023-12: Residuals in Preferred Stock and Common Stock*. Gann stated that this agenda item addresses residuals in preferred stock and common stock structures. She stated that this agenda item was initially exposed via a Working Group e-vote on Oct. 31 and incorporates minor clarifications to *SSAP No. 30R—Unaffiliated Common Stock* and *SSAP No. 32R—Preferred Stock*, stating that structures that are in substance residuals shall be reported as residuals on Schedule BA. Gann stated that guidance was previously adopted to SSAP No. 43R and SSAP No. 48 but noted that she had received an example of a security structure that was previously reported as a principal protected note but had been redesigned to refer to a debt instrument and then a preferred share. She stated that in this example, the preferred stock share was a residual in substance, so NAIC staff want to make sure those sorts of structures are properly classified so that when the residual line is reviewed, users have a full picture of all the residuals that were reported.

Gann stated that interested parties provided comments recommending an edit to SSAP No. 30R to make these changes be in a separate paragraph, but this change was not needed for SSAP No. 32R. Gann stated that a question was asked of whether this change could be effective Jan. 1, 2024, and not for year-end 2023. She stated that NAIC staff do not support that change as it would be a full year before everything would be collectively reported on the residual line. Gann stated that NAIC staff believe this is consistent with the principal concepts for residuals already adopted. She stated that the Schedule BA annual statement instructions already reference other structures that do not fit in SSAP No. 43R or SSAP No. 48 should be reported on that residual line and that this change makes it clear that anything that is an in-substance residual should be reported on the Schedule BA reporting line. NAIC staff believe this should be effective immediately for year-end 2023 and are recommending adoption with the placement change as recommended by interested parties.

Bruggeman stated that this would direct a blanks memorandum to make sure that this goes through to the instructions.

Tip Tipton (Thrivent), representing interested parties, expressed appreciation for Working Group's consideration of Thrivent's comments and making the editorial revisions. He stated that interested parties want to highlight their recognition that residual tranches have been a focal point of regulators over the past year, with changes occurring last year with fixed income instruments on Schedule D being moved to Schedule BA, and to SSAP No. 48 investments just a couple months ago. He stated that industry will do what it can, given this time frame, in making sure that those investments are properly classified as residual tranches and now with clarification on this agenda

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item being adopted very close to year-end. He stated that interested parties are trying to accommodate all the changes that have been adopted, and they appreciate the Working Group's support and any questions that may arise in the near term.

Stolte made a motion, seconded by Clark, to adopt the minor clarifications to SSAP No. 30R and SSAP No. 32R to clarify that investments that are in substance residual interests shall be reported on Schedule BA on the dedicated reporting line for residuals (Attachment One-H), including a memorandum to the Blanks (E) Working Group. The motion passed unanimously.

J. INT 23-04T

Bruggeman directed the Working Group to *INT 23-04T: Life Reinsurance Liquidation Questions*. Marcotte stated that INT 23-04T provides accounting and reporting guidance for ceding entities with a life reinsurance counterparty in liquidation. She stated that this agenda item was created in response to a recent life reinsurer that is in liquidation but noted that these situations are uncommon. Marcotte stated that industry questions were received because contracts from this reinsurer were cancelled effective Sept. 30, 2023.

Marcotte stated that INT 23-04T addresses five issues. She stated that the cancelled contracts would follow the existing guidance on commutation for life insurance contracts. She stated that the existing guidance on impairment of the reinsurance recoverable applies and that reinsurance recoverable amounts should be impaired down to what is expected to be received. She stated that more discussion was needed to address the reporting and admissibility of reinsurance recoverables.

Marcotte stated that the exposure recommended nonadmitting the recoverables after evaluation of impairment because of the uncertainty of recovery. She stated that there was a narrative disclosure and pointers to existing disclosures about commutations and uncollectable reinsurance.

Marcotte stated that comments were received from the ACLI, Lincoln Financial Group, and Nationwide. She stated that the ACLI wrote the primary comments and that Nationwide and Lincoln Financial Group indicated support for the ACLI letter, while also providing extra comments supporting admissibility.

Marcotte asked the Working Group to provide input on reporting, admissibility, and disclosure. She stated that since the Working Group tries to avoid developing company specific guidance, INT 23-04T was originally written generically to apply to reinsurance amounts from U.S. life reinsurer in liquidation. She stated that some regulators expressed concern the recent liquidation was for a few related companies known as Scottish Re, which had been in run-off for several years. Those regulators indicated that they were more comfortable providing guidance that was specific to this liquidation, which they were familiar with, rather than creating a broad rule.

Marcotte stated that the interested parties provided a recommendation to delete paragraph 1f, which noted that some insurers have collateral amounts held in trust. However, NAIC staff recommended keeping part of paragraph 1f.

Bruggeman asked for Working Group input on narrowing down the topic of the INT, from life reinsurance and liquidation in general, to just Scottish Re. Hudson stated support for narrowing the INT to the unique features of Scottish Re. Weaver stated that she had supported the more conservative approach of nonadmitting everything and would support narrowing the focus of the INT to Scottish Re. She stated that she would be comfortable moving forward by admitting some of the amounts if the INT was limited to Scottish Re.

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Marcotte stated that the exposed document maintains reporting reinsurance payables separate from the reinsurance recoverable assets. However, the ACLI recommended reporting one net number on line 25 of the asset page, aggregate write-in for other than invested assets. She stated that Working Group input is requested regarding reporting of other amounts receivable from the reinsurer's liquidation estate. She asked if the Working Group was interested in reporting the amounts related to the reinsurance contract cancellation on line 25 aggregate write-ins for other than invested assets. She stated that is not consistent with normal reporting of reinsurance recoverables, but for the amounts post-contract cancellation, it might make sense. She stated that for claims paid and unpaid incurred prior to the reinsurance contract cancellation, NAIC staff suggested, continuing to report the amounts in the reinsurance asset lines 16.1 – Amounts Recoverable from Reinsurers and line 16.3 – Other Amounts Receivable Under Reinsurance Contracts. If the Working Group wants to use the aggregate write-ins for other than invested assets, it would only be recommended for the expected commutation settlement, essentially for what would have been the bulk reserve credit and other amounts excluding the claims incurred prior to the contract cancellation.

Bruggeman stated that asset lines 16.1 and 16.3 currently follow what is reported now on *Schedule S, Part 2— Reinsurance Recoverable on Paid and Unpaid Losses* for recoverables on paid claims. He stated that paid claims are a known number for claims that happened before Sept. 30, 2023, and unpaid is the estimate for incurred but not reported (IBNR) on those claims. He stated that any claims that occurred after Sept. 30, 2023, are not covered by the reinsurance contract and are going to be direct, so there is nothing to run through any kind of reinsurance recoverable. Bruggeman stated that the other line item is a credit against the liability, so that in accounting speak, the debit is within Schedule S, Part 3, in column 9. He stated that an initial query of this line showed \$812 million of total industry-wide reserve credits as of year-end 2022. Bruggeman stated that the current proposal for Scottish Re is to move that from the reduction of liability page to a write-in line, with Scottish Re in the name to allow easier querying of the data. Hudson and Weaver stated support for this proposal to have the Scottish Re recoverables reporting divided between lines 16.1 and 16.3 for claims incurred prior to Sept. 30, 2023, and in line 25 for other unsettled recoverables from Scottish Re.

Marcotte stated that the fourth issue is admissibility of recoverables from the reinsurer's estate. She stated that the exposed INT proposed to nonadmit after impairment. She stated that NAIC staff recommend admitting recoverables that are backed by sufficient collateral held in a trust in compliance with the *Credit for Reinsurance Model Law (#785)*, provided that these amounts are not in dispute. She stated that this language is more restrictive than what was suggested by the ACLI, which also recommended allowing amounts not secured by collateral to be admitted. She stated that some Working Group members indicated support for admitting amounts in line 16.1 for paid claims incurred prior to the reinsurance contract cancellation, after impairment review, even if there was not collateral, provided that the interpretation was made to be Scottish Re-specific. She stated that this is because Scottish Re has been in runoff for several years, and the amounts have been monitored.

Bruggeman stated that industry has talked with the liquidator for Scottish Re, so there are percentages of numbers available. He stated that he is comfortable with the incurred paid claims before the contract cancellation portion as that is a known number and has already been reported. He said he is unsure of how much to admit of the uncollateralized amounts, which are not backed by a trust. He stated that the credit was a credit against liabilities, is proposed to be on line 25 because that is a policyholder credit that eventually has value in that the ceding entity has been paying for that all along, and the liquidators are going to give the ceding entities some of that amount. He stated that the proof of claim will not be available to be submitted until the end of January 2024 or early February 2024, so there will be discussion between now and then. He stated that there is concern, even specifically

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with Scottish Re, that there is an unknown number, and that is why regulators have been saying to nonadmit until more is known and requested feedback from Working Group members on possible solutions.

Weaver stated that she is comfortable with admitting funds and trusts where there is no dispute and is comfortable with paid claims incurred prior to contract cancellation. She prefers to nonadmit the rest.

Charles Evers (Protective Life), representing the ACLI, stated that the ACLI had comments on four of the five issues covered by the draft. He stated that while they may not be in complete agreement on balance sheet geography, they believe companies have the information to comply with what has been recommended. He stated that he wanted to focus his comments on the admissibility of the recoverables from Scottish Re. He stated that the ACLI agrees that any recoverables that are supported by trust should be admitted up to the amount of available assets and likewise the amounts that are contemplated being reported on line 16.1, paid claims incurred before the contracts were canceled. He stated ACLI agreement with choice 2 in the materials for paragraph 18 that those should be admitted assets subject to an impairment review. He stated that the ACLI still has significant concern where the current draft INT nonadmits everything else, which, for a lot of companies, is a large component of the overall receivable from Scottish Re. He stated that this recoverable is acknowledged specifically by the Scottish Re liquidation order.

Evers stated that a good example of what is included in that are amounts related to coinsurance, for level term, for example, where companies have been making premium payments to Scottish Re for years and have been collecting those premiums. Thus, it was contemplated that would be used to pay for future claims, and it is also contemplated by the liquidation order that there would be recoverable from the ceding companies. He stated that since those contracts have been terminated, the direct writers are now going to be responsible for paying these claims, despite having paid those premiums to Scottish Re. He stated that Protective Life, along with many others, has been monitoring this for years and has calculated an amount that it believes to be due from Scottish Re based on information that was received from the trustee. It also has been performing an impairment assessment. He stated that on Sept. 30, 2023, when the liquidation order became effective, Protective Life did these calculations and estimations and reviewed all this information with its domestic regulators. He stated that all of this includes consideration of specific contractual arrangements that Protective Life and other companies have with Scottish Re, and all of this information is available as part of the liquidation process. He stated that Protective Life knows it is going to receive a significant amount of what is due to it and will not receive 100 cents on the dollar, but just to have a blanket nonadmission seems overly punitive.

Evers stated that Protective Life understands from some conversation that there might possibly be some appetite for having the INT require explicit domestic regulator approval for these other amounts admitted and includes some more specifics in the INT. He stated that Protective Life would be open to that and working with NAIC staff to try to make that happen. He stated that Protective Life drafted some revised paragraph 19 language and shared it with Gann, which provides more specifics on how this other receivable is currently contemplated to be in line 25 and, under what circumstances, that could be admitted as well. Marcotte asked if the proposed domestic regulator approval of admissibility would be considered a permitted practice. In response, Collin Newberry (Protective Life) stated that they would also propose that such domestic regulator approval would not be considered a permitted practice but would be subject to other disclosures similar to the *SSAP No. 108—Derivative Hedging Variable Annuity Guarantees* or *SSAP No. 26R—Bonds* disclosure. Bruggeman stated that the Working Group could consider the proposed paragraph 19 language as interested parties' comments to the pending exposure of the INT. Bruggeman also noted *SSAP No. 72—Surplus and Quasi-Reorganizations* has some domestic regulator approvals that are not considered a permitted practice. Bruggeman noted a concern with the onerous

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burden on state insurance departments to have to approve the admissibility of more than 100 insurers' recoverables and the need to have to monitor the amounts.

Hudson stated that the proposed paragraph 19 language has not been reviewed by the Working Group and should be included in any proposed comments drafted during subsequent discussions between NAIC staff and interested parties.

Justin Blake (Nationwide) noted support for the ACLI letter and support for admitting reinsurance recoverables collateralized by a trust.

Clark stated support for Hudson's suggestion and added that another question to consider is the legal issue of whether the Working Group can look at it under Model #785. For all the states that have adopted Model #785, he said one either has to be an authorized reinsurer or their reserve credit has to be fully collateralized. So, if there is a reinsurer in liquidation, which is likely not an authorized reinsurer, he asked if the settlement of the reserve credit is compliant with Model #785. Marcotte stated that she had this discussion with some regulators and discussed that after Sept. 30, 2023, there is no reinsurance, and it is just an unsettled contract receivable. Bruggeman stated that this was part of the initial discussion and is unresolved as to what reinsurance schedule this should be reported under.

Hudson made a motion, seconded by Weaver, to expose *INT 23-04T: Scottish Re Life Reinsurance Liquidation Questions*, including choice 2 for paragraph 18, which expands the admissibility for collateralized amounts in an A-785 compliant trust and for paid claims incurred prior to the contract cancellation, as discussed during the meeting and the other edits proposed by NAIC staff and discussed during the meeting to provide accounting and reporting guidance for ceding entities with a life reinsurance counterparty in liquidation for a public comment period ending Dec. 29 to allow for a January 2024 discussion. The motion passed unanimously.

3. Considered Maintenance Agenda – Pending Listing

Hudson made a motion, seconded by Clark, to expose the following agenda items with a public comment period ending Feb. 9, 2024, excluding agenda item 2023-28, which will have a public comment period ending Jan. 22, 2024. The motion passed unanimously. After the meeting, the comment period for item 2023-24 was shortened to Dec. 29 to allow for January 2024 discussion.

A. Agenda Item 2023-24

Bruggeman directed the Working Group to agenda item *2023-24: Measurement of Credit Losses on Financial Instruments, and Other Related ASUs*. Oden stated that this agenda item was developed in response to *ASU 2016-13, Measurement of Credit Losses on Financial Instruments*, otherwise known as current expected credit loss (CECL), and also addresses other related and subsequently issued ASUs that further amend or implement CECL. ASU 2016-13 was issued by the Financial Accounting Standards Board (FASB) in June 2016 to revise U.S. GAAP impairment and credit loss accounting guidance from an incurred loss methodology to an expected loss methodology. Oden stated that these revisions also replace the impairment guidance for available-for-sale debt securities with a modified other than temporary impairment (OTTI) model. NAIC staff performed an analysis of ASU 2016-13 and the other applicable ASUs to assess the potential impact on statutory accounting. The analysis identified that statutory accounting already has concepts that incorporate a prospective view of future credit risk. He noted that asset valuation reserves (AVR) require life insurance companies to establish a reserve to account for a future impairment loss on all assets. Alternatively, SSAP No. 26R requires companies that do not maintain

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AVR to hold bonds at fair value if they do not have an NAIC designation of 1 or 2. He stated that investments are also subject to RBC, which factors in credit risks and an expectation of future credit losses. Oden stated that since RBC methodology already incorporates credit risk, any CECL allowance would need to be reversed in the RBC formula to avoid double-counting expected losses. He stated that this would largely eliminate any benefit of CECL to regulator solvency monitoring efforts. Oden stated that based on the analysis, NAIC staff recommend that the Working Group move this item to the active listing categorize as an SAP clarification and expose revisions to reject ASU 2016-13 and five other related ASUs. He noted that these ASUs will be rejected within 15 applicable SSAPs, as detailed in the Form A and *INT 06-07: Definition of Phrase "Other Than Temporary."* He noted that a previous agenda item #2016-20 was started on CECL and last exposed for comment on Aug. 4, 2018. He recommend it be formally disposed of and replaced by this new agenda item.

Bruggeman stated that he directed NAIC staff to research how best to maintain pre-CECL GAAP impairment guidance for posterity, potentially as an issue paper.

B. Agenda Item 2023-25

Bruggeman directed the Working Group to agenda item *2023-25: ASU 2023-03, Amendments to SEC Paragraphs*. Oden stated that this agenda item addresses *ASU 2023-03: Presentation of Financial Statements (Topic 205), Income Statement—Reporting Comprehensive Income (Topic 220), Distinguishing Liabilities from Equity (Topic 480), Equity (Topic 505), and Compensation—Stock Compensation (Topic 718)*, which amends U.S. Securities and Exchange Commission (SEC) paragraphs for the issuance of SEC staff bulletins, accounting series releases, and meeting announcements. He stated that these changes primarily provide updates on various aspects of SEC guidance, focused on stock compensation and equity-based payments. Oden stated that only SEC paragraphs were revised by the ASU, and NAIC staff recommend that the Working Group expose ASU 2023-03 for rejection in *Appendix D—Nonapplicable GAAP Pronouncements*.

C. Agenda Item 2023-26

Bruggeman directed the Working Group to agenda item *2023-26: ASU 2023-06, Codification Amendments* in response to the SEC's disclosure update. Oden stated that NAIC staff will defer action on this agenda item.

D. Agenda Item 2023-27

Bruggeman directed the Working Group to agenda item *2023-27: ASU 2023-04, Amendments to SEC Paragraphs—Cryptocurrency*. Oden stated that ASU 2023-04 updates SEC paragraphs for an SEC bulletin that provides guidance on accounting for obligations to safeguard crypto assets that an entity holds for its platform users. He stated that, as part of the review, NAIC staff considered whether this would have any effect on *INT 2021-01: Accounting for Cryptocurrencies*. He stated that NAIC staff noted only SEC paragraphs were revised by the ASU and do not believe any update to INT 2021-01 is necessary. Oden stated that NAIC staff recommend that the Working Group expose ASU 2023-04 for rejection in *Appendix D—Nonapplicable GAAP Pronouncements*.

E. Agenda Item 2023-28

Bruggeman directed the Working Group to agenda item *2023-28: Collateral Loan Reporting*. Gann stated that this agenda item proposes an expansion of the current reporting line. Currently, collateral loans are divided by affiliated or unaffiliated. She stated that this agenda item proposes an expansion of reporting lines to identify the various investment categories that the underlying collateral could be. Gann stated that there are also proposed

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new disclosures to aggregate and identify what is admitted and not admitted within each of those investment categories. She stated that the Working Group requests feedback on whether there are certain reporting lines that could be collapsed or combined. She stated that NAIC staff are proposing a shortened public comment period ending Jan. 22, 2024, since this goes together with the other Schedule BA reporting revisions. She stated that NAIC staff recommend that the Working Group send notice to the Blanks (E) Working Group, as well as the Health Risk-Based Capital (E) Working Group, Life Risk-Based Capital (E) Working Group, Property and Casualty Risk-Based Capital (E) Working Group, Capital Adequacy (E) Task Force, and Risk-Based Capital Investment Risk and Evaluation (E) Working Group so that they are aware of these proposed expansions to Schedule BA.

F. Agenda Item 2023-29

Bruggeman directed the Working Group to agenda item *2023-29: IMR/AVR Preferred Stock*. Gann stated that this agenda item proposes revisions to the current annual statement instructions for perpetual preferred stock. She stated that in 2021, the Working Group revised the measurement method for perpetual preferred stock to clarify that it should always be at fair value, unless there is a call price that caps it. She stated that the resulting changes to IMR/AVR guidance were not reflective of that time, so it still has guidance for IMR as held at cost. She stated that since that does not exist anymore, there is a disconnect between the SAP measurement method and the AVR guidance and that this agenda item corrects that disconnect. Gann stated that there are other elements with regard to redeemable preferred stock that she recommends being reviewed and modified as needed in the IMR/AVR annual statement instructions as part of the long-term project. She stated that NAIC staff recommend that the Working Group move this item to the active listing, categorized as an SAP clarification, and expose proposed revisions to the annual statement instructions to remove the guidance that directs all preferred stock to be allocated between IMR/AVR based on NAIC designation.

G. Agenda Item 2023-30

Bruggeman directed the Working Group to agenda item *2023-30: Admissibility Requirements of Investments in Downstream Holding Companies*. Marcotte stated that this agenda item provides consistency revisions in *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, paragraph 24. The revisions are on audits to better align with guidance in paragraphs 26 and 27 on the look-through methodology. She stated that paragraph 24 summarized what was in the other paragraphs, and this agenda item will update paragraph 24 so that it references the other paragraphs, rather than summarizing them. She stated that this is more of a consistency revision, and NAIC staff recommend that the Working Group move this item to the active listing, categorized as an SAP clarification, and expose revisions to SSAP No. 97 to revise paragraph 24 language to better align it with the existing guidance provided in paragraphs 26 and 27.

H. Agenda Item 2023-31

Bruggeman directed the Working Group to agenda item *2023-31: Model 630 Mortgage Guaranty Insurance*. Marcotte stated that this agenda item is to put a project on the agenda and expose the intent to review recent changes to the *Mortgage Guaranty Insurance Model Act (#630)*. She stated that this had been a multiyear project to update Model #630 on reserving. She stated that there are approximately 10 mortgage insurers concentrated in three states. She stated that the Working Group requests comments on a proposed effective date.

Draft Pending Adoption

Attachment 1
Accounting Practices and Procedures (E) Task Force
3/16/24

4. Considered Maintenance Agenda – Active Listing

Bruggeman directed the Working Group to agenda item *2023-03: New C-2 Mortality Risk Note*. Marcotte stated that this agenda item is recommended to be moved to disposed. She stated that this was a mortality risk note that was requested by the Life Risk-Based Capital (E) Working Group because it wanted a link from the annual statement to its updated C-2 mortality charges. She stated that prior comments from industry noted that there was some redundancy and requested that this information not be in a note, so the Working Group deferred action and referred the comments received to the Life Risk-Based Capital (E) Working Group. Marcotte stated that the Life Risk-Based Capital (E) Working Group, along with its interested parties, has submitted a new blanks proposal that moves some of the information to a general interrogatory. She stated that since there are no statutory revisions, NAIC staff are recommending the Working Group move this item to the disposed listing without statutory revisions.

Kasinow made a motion, seconded by Malm, to move agenda item 2023-03 to the disposed listing without statutory revisions. The motion passed unanimously.

5. Discussed Other Matters

A. Review of U.S. GAAP Exposures

Marcotte identified one GAAP exposure with a comment deadline of Oct. 30, 2023, that is recommended for review by the Working Group in the normal maintenance process (Attachment One-I).

B. Life Actuarial (A) Task Force Coordination Memorandum

Marcotte stated that included in the meeting materials is a coordination memorandum from the Life Actuarial (A) Task Force that details changes to the *Valuation Manual* since August 2022 (Attachment One-J). She stated that these amendments were adopted by the Life Insurance and Annuities (A) Committee on Aug. 15, 2023, and by the Executive (EX) Committee in August 2023. Marcotte stated that there were no items that would require Working Group action.

C. IAIS AAWG Update

Gann provided an update on the Audit and Accounting Working Group (AAWG) of the International Association of Insurance Supervisors (IAIS). She stated that NAIC staff are actively monitoring several work streams that are occurring with regard to climate risk and financial disclosures, including application papers to various Insurance Core Principles (ICPs). She stated that NAIC staff are also monitoring the IAIS Climate Risk Subgroup. Gann stated that she was charged with drafting a segment of a paper related to disclosure constraints on behalf of the U.S. She stated that the final paper will have a consensus of all the jurisdictions. Gann stated she is requesting comments with regard to what should be included in that paper, including data availability, data quality, and litigation concern. She stated that she will be providing a draft to the IAIS on Dec. 8, 2023, and is asking for comments by Dec. 5, 2023.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Committees/E CMTE/APPTF/2023-3-Fall/Summary and Minutes/SAPWG/SAPWG Minutes 12.1.23.docx

Draft: 2/2/24

Statutory Accounting Principles (E) Working Group
Virtual Meeting
January 10, 2024

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met Jan. 10, 2024. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Sheila Travis (AL); Kim Hudson (CA); William Arfanis (CT); Rylynn Brown (DE); Cindy Andersen (IL); Melissa Gibson and Stewart Guerin (LA); Judy Weaver (MI); Doug Bartlett (NH); Bob Kasinow (NY); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Elena Vetrina (WI). Also participating was: Roy Eft (IN).

1. Reviewed Comments on Exposed Items

The Working Group met to review comments received ([Attachment 1](#)) on items exposed at the 2023 Fall National Meeting.

A. Agenda Item 2023-24

Bruggeman directed the Working Group to agenda item 2023-24: *Accounting Standards Update (ASU) 2016-13, Measurement of Credit Losses on Financial Instruments (CECL)*. Wil Oden (NAIC) stated that agenda item 2023-24 was exposed at the 2023 Fall National Meeting to address ASU 2016-13, as well as other subsequently issued CECL-related ASUs. Oden stated that the comment period for CECL was originally scheduled to end Feb. 9, 2024, but was later moved to Dec. 29, 2023. He stated that this change was requested by industry so that the Working Group would have the opportunity to address ASU 2016-13 for statutory accounting purposes, effective Dec. 31, 2023. Oden stated that the main reason for this request was that, under generally accepted auditing standards (GAAS), insurers are required to consider whether they need to provide relevant material disclosures. He stated that if the CECL-related disclosures were not formally rejected for statutory accounting as of Dec. 31, 2023, that would potentially require insurers to provide CECL disclosures on their year-end audited financial statements. He stated that NAIC staff recommended adoption of the exposed revisions to reject ASU 2016-13 and other related ASUs, with an effective date of Dec. 31, 2023, as well as a minor consistency revision detailed in Form A. Additionally, Oden stated that NAIC staff intend to preserve the pre-CECL generally accepted accounting principles (GAAP) impairment methodology in a separate proposal.

Rose Albrizio (Equitable), on behalf of interested parties, stated that they support the adoption of the rejection of this agenda item.

Walker made a motion, seconded by Hudson, to adopt the exposed revisions to reject ASU 2016-13 and the other related ASUs, with an explicit effective date of Dec. 31, 2023. The adoption included a minor consistency revision that added the sentence referencing previously adopted GAAP guidance to all revised Statements of Statutory Accounting Principles (SSAPs) ([Attachment 2](#)). The Working Group also reiterated its direction to NAIC staff to research and prepare a document to maintain pre-CECL GAAP impairment guidance for posterity. The motion passed unanimously.

B. INT 23-04

Bruggeman directed the Working Group to the exposed tentative *Interpretation (INT) 23-04: Scottish Re Life Reinsurance Liquidation Questions*. Robin Marcotte (NAIC) stated that at the 2023 Fall National Meeting, the Working Group exposed, for a second time, INT 23-04 with updates to provide guidance for ceding entities with

reinsurance balances from a U.S.-based life reinsurer in liquidation, Scottish Re. She stated these updates focused on accounting, reporting, and reinsurance recoverables. Marcotte stated that INT 23-04 is proposed to be effective for year-end 2023 reporting.

Marcotte stated that the comments received were primarily provided by the American Council of Life Insurers (ACLI), with interested parties providing comment letters that noted support for the ACLI's comments. Marcotte recommended adoption of INT 23-04 effective for Dec. 31, 2023, reporting, including adoption of the ACLI proposed edits to paragraphs 2 and 14, and recommended the Working Group direct NAIC staff to provide any minor consistency updates to paragraph 23 as needed. She also recommended that the Working Group discuss the admissibility of reinsurance recoverables. Depending on the outcome of the discussion, the Working Group could either choose to adopt paragraph 19 as exposed, which is the NAIC staff recommendation, or modify paragraph 19 with either the ACLI proposed language or the NAIC staff modified language as was detailed in the hearing agenda. She stated that if the Working Group chooses either of these options for updating paragraph 19, then a new disclosure regarding regulatory approval is recommended, and the Working Group should determine the type of disclosure.

Marcotte stated that the ACLI edits proposed to paragraph 2 focused on making it clear that the scope of INT 23-04 is focused on receivables from Scottish Re. She stated that for the reporting of reinsurance recoverables, the ACLI had clarifying edits that reworded paragraph 14 to clarify what amounts are recoverable from the reinsurer's estate. She stated that NAIC staff recommend incorporating the ACLI edits to paragraphs 2 and 14. She stated that paragraph 23 is to summarize whatever is adopted.

Bruggeman stated that ACLI comments identify that there is a lot of variability and, because every contract was so unique, having a discussion with the state of domicile would probably be in the best interest of the individual companies. Hudson stated support of the NAIC staff recommendation and believes there was potential inconsistency in allowing variable admissibility. Hudson noted that this may have to be further revised as additional information is available. Smith stated that a permitted practice would be the way to go and supported not changing the INT on the topic of admissibility. Weaver stated that there is still too much uncertainty about the recoverability of those amounts and, to be conservative, they should be nonadmitted. She stated that if the state of domicile wants to grant a permitted practice, that is a discussion that the insurer and state of domicile can have. Clark stated his agreement with the previous comments.

Bruggeman stated that NAIC staff had provided him with 2022 reporting data, which included approximately 130 companies that have some level of paid and unpaid recoverables and/or credit against the reserves. He stated that six companies have greater than 5% surplus in those recoverables, including reinsurance credits against reserves, and of those six, two are greater than 10%, one being significant. Bruggeman stated that trying to gather the information is a little more onerous than initially thought. He stated that the Working Group can send out the information to state insurance regulators, but since it is individual companies, they do not want to make it public. Eft stated that he supports what NAIC staff have presented.

Charles Evers (Protective Life), on behalf of the ACLI and Protective Life, stated support for allowing further admission beyond what has been exposed. He noted that, under *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance*, reinsurance-related receivables are required to be assessed for impairment. Further, the ACLI recommended adding additional requirements that would have companies that wanted to admit additional amounts talk with their domestic regulator for permission. Evers stated that he understands if it is a desire just to be more conservative, which is the Working Group's prerogative. He stated that they felt it was overly conservative, when there are significant assets in the Scottish Re estate, and they expect a significant recovery. He stated his expectation that the liquidation would be conducted in a timely manner. He stated that although they believe the ACLI recommendations represent a reasonable approach, that they were given a fair hearing on

this issue and that they deeply appreciate the opportunity to be in front of the Working Group to state their position.

Arfanis made a motion, seconded by Hudson, to adopt INT 23-04, as exposed, with the minor updates to paragraphs 2, 14, and 23 as discussed, to provide guidance for ceding entities with reinsurance balances from Scottish Re, with an effective date of reporting periods on or after Dec. 31, 2023 ([Attachment 3](#)). The motion passed unanimously.

2. Considered the Maintenance Agenda – Pending List

A. Agenda Item 2024-01

Bruggeman directed the Working Group to agenda item 2024-01: Bond Definition – Debt Securities Issued by Funds. Julie Gann (NAIC) stated that this agenda item was developed to clarify guidance on the treatment of debt securities issued by funds, particularly to eliminate the inconsistent application between similar funds and to better align with the recently adopted definition for residual tranches. She stated that in the adopted definition in *SSAP No. 26R—Bonds*, bonds issued by business development corporations, closed-end funds, or similar operating entities are examples of issuer credit obligations, meaning they are in the scope of SSAP No. 26R when they are registered under the federal Investment Company Act of 1940 (1940 Act). Gann stated that it has been noted that this guidance is inconsistent with the stated intent of having the bond definition be principles-based as the registration would be a legal structure component, and with the existing guidance, two investment structures could be identical and have different classification based on whether the structure is registered. Gann stated that this agenda item proposes revising the adopted definition in SSAP No. 26R to clarify that debt securities issued by funds that represent operating entities qualify as issuer credit obligations. She stated that those issued from U.S. Securities and Exchange Commission (SEC)-registered items would still qualify, but there is guidance in a new paragraph 12 to help identify other debt securities issued by funds that would qualify. She stated that NAIC staff recommends exposing this agenda item, noting the revisions to SSAP No. 26R are minor—revising paragraph 7i and adding the new paragraph 12. Gann stated that there are also proposed revisions to the draft issue paper, which is yet to be adopted, but NAIC staff are highlighting what those would be as well to address what was previously included related to the 1940 Act registered funds. Gann stated that NAIC staff proposed a comment deadline of Feb. 9, 2024, because that matches the current comment deadline for items exposed at the 2023 Fall National Meeting.

Clark made a motion, seconded by Hudson, to expose agenda item 2024-01 with proposed revisions to clarify the guidance for debt securities issued by funds. These revisions permit debt securities issued by funds to be classified as issuer credit obligations if the fund represents an operating entity regardless of SEC registration status ([Attachment 4](#)). The motion passed unanimously.

3. Discussed Other Matters

Marcotte stated that the Valuation Analysis (E) Working Group sent the Statutory Accounting Principles (E) Working Group two referrals related to life reinsurance. She stated that NAIC staff recommend the Statutory Accounting Principles (E) Working Group receive the referrals and that NAIC staff will develop agenda items for discussion at the 2024 Spring National Meeting. Marcotte stated that the first referral ([Attachment E](#)) recommends deleting a sentence from Section 2C of Appendix A-791, Life and Health Reinsurance Agreements, noting that this sentence is more of an aside example and is being misused as a rule. She stated that the second referral ([Attachment 5](#)) identified issues when evaluating reinsurance for risk transfer under SSAP No. 61R, specifically how to evaluate risk transfer when treaties involve more than one type of reinsurance in the same treaty. She stated that it has been observed that some companies are reporting an overstated reserve credit due

to bifurcated risk transfer analysis and are recommending that the Statutory Accounting Principles (E) Working Group discuss this issue and consider whether any clarifications are needed to the risk transfer requirements. Marcotte stated that NAIC staff will draft two separate agenda items for the Valuation Analysis (E) Working Group referrals.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

[https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national meetings/a. national meeting materials/2024/01-10-24/minutes/sapwg minutes 01.10.24.docx](https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national%20meetings/a.national%20meeting%20materials/2024/01-10-24/minutes/sapwg%20minutes%2001.10.24.docx)

Draft: 1/31/24

Statutory Accounting Principles (E) Working Group
E-Vote
January 29, 2024

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force conducted an e-vote that concluded Jan. 29, 2024. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Kim Hudson (CA); Jamie Walker (TX); Cindy Andersen (IL); Travis Sheila (AL); Rylynn Brown (DE); Doug Bartlett (NH); Bob Kasinow (NY); David Smith (VA); and Amy Malm (WI).

1. Exposed Agenda Item 2022-14, revisions to SSAP Nos. 93R and 94R

The Working Group considered an e-vote exposure of additional revisions made to the drafts of *SSAP No. 93R—Investments in Tax Credit Structures* and *SSAP No. 94R—State and Federal Tax Credits* as part of Agenda Item 2022-14 New Market Tax Credits. The revisions recommend various minor consistency and clarifying changes to SSAP Nos. 93 and 94R, as well as more substantial revisions to the Prospective Utilization Assessment detailed in SSAP No. 93 in response to interested party concerns.

Walker made a motion, seconded by Hudson, to expose the revised draft of SSAP Nos. 93 and 94R for a public comment period ending Feb. 9. The motion passed with 10 Working Group members responding with affirmative votes.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/01-29-24 - evote/01-29-24 evote 2022-14.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National%20Meetings/A.%20National%20Meeting%20Materials/2024/01-29-24%20-%20evote/01-29-24%20evote%202022-14.docx)

Draft: 2/26/24

Statutory Accounting Principles (E) Working Group
Virtual Meeting
February 20, 2024

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met Feb. 20, 2024. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Sheila Travis and Richard Russell (AL); Kim Hudson (CA); William Arfanis and Michael Estabrook (CT); Cindy Andersen (IL); Melissa Gibson and Stewart Guerin (LA); Judy Weaver and Steve Mayhew (MI); Doug Bartlett (NH); Bob Kasinow (NY); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Elena Vetrina (WI).

1. Reviewed Comments on Exposed Items

The Working Group met to review comments received ([Attachment 1](#)) on items exposed at the 2023 Fall National Meeting.

A. Agenda Item 2019-21

Bruggeman directed the Working Group to agenda item *2019-21: Principles-Based Bond Project*. Julie Gann (NAIC) stated that this agenda item focuses on the revisions to *SSAP No. 21R—Other Admitted Assets* that are predominantly related to the principles-based bond project. She stated that this item was exposed at the Fall National Meeting and the revisions at that point in time were focusing on the residual guidance, specifically the accounting and measurement for residuals and not guidance for the non-bond debt securities. Gann stated that the guidance related to the non-bond debt securities did not receive any comments from the last two exposures. She stated that for residuals the item that was exposed at the Fall National Meeting had been updated to reflect interested party comments, including a new measurement method that uses the effective yield for determining interest income and book/adjusted carried value (BACV). Gann stated that the guidance incorporated a practical expedient where all cash flows received would reduce the security's BACV, reflecting more of a return of cost basis. She stated that since that exposure NAIC staff has been collaborating with interested parties during the interim. Gann stated that interested parties did provide comments in their comment letter, but she believes most of the comments have been addressed in the revised version that is included within the meeting materials. She stated that NAIC staff is recommending the Working Group expose an updated revised SSAP No. 21R, which reflects the current collaboration with interested parties for a shortened exposure period ending March 7, with the goal of adoption consideration at the 2024 Spring National Meeting. She stated that if additional time is needed, interested parties and regulators should let NAIC staff know. Gann also highlighted that the guidance is drafted to allow for early adoption of the residual guidance only in response to interested parties' comments. She stated that the way it is worded, it would only be applicable to the accounting and measurement residual guidance, not for the entire SSAP and not for the guidance for non-bond debt securities, which has an effective date of Jan. 1, 2025, to be consistent with the bond project.

Gann presented the key elements included in the revised agenda item. She stated that the first has to do with transition guidance where residuals were accounted for under a different SSAP prior to the inclusion in SSAP No. 21R. The second has to do with admittance of the residuals. She stated that all residuals will be subject to the guidance in SSAP No. 21R. So, if it is in the legal form of a securitization in scope of *SSAP No. 43R—Loan Backed and Structured Securities*, or as an investment in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, it will follow the guidance of SSAP No. 21R. For example, under SSAP No. 48, audits are required for admittance, but that will not be required for residuals because they would be subject to SSAP No. 21R guidance. Gann stated that in the prior version there was guidance for if a residual ceases to be a residual and

moving it to another reporting location, and that guidance has been eliminated. She stated that NAIC staff agrees with interested parties that moving investments from one classification to another after original acquisition becomes a reporting burden, so that guidance has been removed. She stated that, once reported as residual, it would stay at that location until it was disposed. She stated that there was also some OTTI clarification guidance included in the current revisions.

Andrew Morse (Global Atlantic), on behalf of interested parties, stated that interested parties are in favor of the exposure, and are looking forward to making any final industry comments prior to the Spring National Meeting and thanked regulators and NAIC staff for a very collaborative process on this agenda item.

Clark made a motion, seconded by Walker, to expose revisions to SSAP No. 21R with a shortened exposure period ending March 7, to allow for adoption consideration at the Spring National Meeting. The motion passed unanimously.

B. Agenda Item 2023-16

Bruggeman directed the Working Group to agenda item *2023-16: Schedule BA Reporting Categories*. Gann stated that this agenda item was exposed at the Fall National Meeting proposing annual statement instruction edits to improve the descriptions of the underlying categories of the reporting lines related to SSAP No. 48. She stated that these are investments in joint ventures, LLC's or partnerships with underlying characteristics such as fixed income, real estate, common stock, mortgage loans, and other. She stated the intent of the agenda item was to improve descriptions of the underlying categories to improve consistency in reporting. Gann stated that the Blanks (E) Working Group had also exposed agenda item 2023-12BWG in response to the Bond Project. These revisions were more detailed and included adding new reporting lines for the non-bond debt securities and also included the elimination of an existing reporting line for non-registered private funds, because those items should be included in the SSAP No. 48 lines as a joint venture, partnership, or LLC. She stated that interested party comments were received proposing some clarification edits to the joint ventures, partnership and LLC reporting line, as well as some items related to residuals. Gann stated that the Blanks (E) Working Group also received comments on their exposure of 2023-12BWG. Gann stated that, since the Blanks (E) Working Group is not a policy making group, and because the Statutory Accounting Principles (E) Working Group had sponsored the blanks proposal, this discussion was encompassing all comments with the intent to revise the blanks proposal. Gann stated that although there was some opposition to the deletion of the non-registered private funds reporting line, the Working Group plans to continue with removing that reporting line and have those items be captured in the SSAP No. 48 reporting lines as joint ventures, partnerships or LLCs. Gann stated that one reason that was given as opposition was that there were some investments being reported that were not non-registered private funds. She stated that these could be characterized as a variety of types of collateral loans, including warehouse loans, intercompany and related party loans and loans that were fully guaranteed by the U. S. government. Gann stated that those are not non-registered private funds and should not be reported within that category. She stated that these items should likely be captured within the collateral loan category. She stated that NAIC staff recommends the Working Group re-expose this agenda item and to provide a modified blanks proposal for exposure during the Blanks (E) Working Group call on Feb. 21, 2024. Gann stated revisions in the proposal include a statement, at the top of Schedule BA, that all investments shall be reported in the dedicated reporting line category, and investments that do not have a dedicated category are to be captured in the any other class of asset category. For the joint venture, LLC or partnership reporting category, the Working Group proposes to take the interested party comments and disclosure clarifications and incorporate those into the descriptions. She stated that those descriptions have been further expanded to make it clear that those are for investments that are in scope of SSAP No. 48. Gann stated that there is one exception to the joint venture, partnership and LLC reporting line proposed for structured settlement payment rights that are in scope of SSAP No. 21R. She stated that the Working Group did not include interested party comments for revisions made to the residual reporting category because all the

residuals are moving to SSAP No. 21R, and this will be effect Jan. 1, 2025 which will match the SSAP No. 21R effective date. As such, the reporting instructions have been revised to reflect the resulting SSAP No. 21R location.

Tip Tipton (Thrivent), stated that interested parties realize that the new categories for scheduled BA are a vital part of the overall bond project and that this is a critical phase to make sure these get adopted in preparation for the Jan. 1, 2025, effective date. He stated that interested parties will be commenting on the Statutory Accounting Principles (E) Working Group exposure as well as with the Blanks (E) Working Group exposure.

Morse stated that one key point that industry would like to make is they understand the concern that is being raised about the reporting being consistent with the SSAPs. He stated that the non-registered private funds group category has had a long history, it used to be called fixed income instruments with underlying characteristics of various types of investments, and in fact, the annual statement instructions for that category today instruct companies to include fixed income instruments that are not Schedule D or Schedule B investments. He stated that there is confusion as to how the SSAP maps into the blank instructions. Morse stated that the basis for the current reporting, which has been flagged as a concern by the Working Group, is that when fixed income instruments are included in this section the investments map to AVR and from AVR get pulled to RBC. He stated that the key comment that industry wanted to make is that how this is being reported now, has been from interpretation of the annual statement instructions, rather than the core SSAPs. He stated that interested parties were primarily hoping to take the time to make sure to understand that sub-group of assets, and make sure that if changes are made to how they are currently reported, that any blanks instructions impacting Schedule BA, AVR, RBC instructions are adopted at the same time. He stated that interested parties hoped this would be effective Jan. 1, 2025, along with the bond project, but with the guidance from this exposure are concerned this may be in a 2024 timeframe, which could be challenging.

Gann stated that the proposal for the blanks reporting changes is Jan. 1, 2025. She stated that a broader question may be for those items that are not non-registered private funds, such as the collateral loans, that were put in that category. She stated that the reporting category is for “non-registered private funds with underlying assets having characteristics of a bond, mortgage loan, or other fixed income instrument”. Although the instructions indicate that the category includes fixed-income instruments that are not corporate or government unit obligations or secured by real property, those instructions are describing the underlying characteristics of what a non-registered private fund should possess to be in this reporting line. She stated that there might be a question of whether industry should continue capturing collateral loans in that reporting line for 2024, noting that the collateral loans reporting line would be the best place for those items. Gann stated that she is not familiar with any direction for collateral loans to go under the non-registered private funds, so that would be something that would be up for regulator discussion.

Clark stated that industry, during this next exposure, could look at that population and tell the Working Group what else is in there and if it is all collateral loans. He stated that he agrees the items identified as being captured in the non-registered private fund line should be reported as collateral loans, but if there are other things in there, interested parties could bring those to the Working Group to determine whether they fit in an existing bucket or if there are new reporting categories needed.

Hudson made a motion, seconded by Walker, to expose the most recent revisions to Agenda Item 2023-16 with an exposure period ending April 19, and to present a modified blanks proposal with a request for exposure to the Blanks (E) Working Group on their Feb. 21, 2023, conference call.

C. Agenda Item 2023-28

Bruggeman directed the Working Group to agenda item 2023-28: *Collateral Loan Reporting*. Gann stated that at the 2023 Fall National Meeting, the Working Group exposed a new disclosure to SSAP No. 21R for year-end 2024 and to expand the reporting lines on Schedule BA to separate collateral loans by the type of collateral that secures the loan. She stated that, with the exposure, the Working Group proposed potential data capture categories to which interested parties provided comments. Gann recommended that the Working Group adopt the exposed disclosure revisions to SSAP No. 21R and move forward with sponsoring a blanks proposal to data capture the information for year-end 2024. She stated that interested parties had proposed clarifying revisions to the Blanks (E) Working Group data capture proposal. Gann stated that ultimately the first recommendation is to adopt the proposed new disclosure to SSAP No. 21R, to improve the data on collateral loans and what is backing the collateral loans, for year-end 2024.

She stated that the second part of the NAIC staff recommendation is that the Working Group expose proposed reporting lines to Schedule BA, for collateral loans, with a comment deadline of April 19. Gann stated that the agenda item does not contain AVR reporting revisions, but NAIC staff are specifically requesting feedback from industry and regulators on whether collateral loans backed by certain types of collateral should flow through AVR for an RBC impact. She stated that NAIC staff also recommend a referral to the Life Risk-Based Capital (E) Working Group on the proposed reporting lines and specifically to ask for feedback on the AVR mapping. Gann stated that, historically, collateral loans have not flowed through AVR. She stated that this was tracked back to a 1990 survey where it was identified that collateral loans were too small in proportion to warrant going through AVR for life companies. She stated that at that time they were captured on Schedule C, and when that schedule was eliminated, they were moved to Schedule BA. At that time, they were not incorporated with the mapping through AVR. Gann stated that, for life companies, they are the only item on Schedule BA that does not map through AVR. She stated that all collateral loans receive a flat RBC charge; for life companies it is .6080 or 6.08%; for health and property & casualty it is .5 or 5%. She stated that this relates to the conversation for the previous agenda item, where certain collateral loans are being reported in the non-registered private fund category, and that category does map to AVR and potentially has a different RBC impact. Gann stated that NAIC staff also proposed expanding the non-collateral loan reporting lines to separate between those items that are related-party and affiliated loans.

Bruggeman asked Gann whether the second exposure item would apply for Jan. 1, 2025. Gann stated that, ideally, it would apply for Jan. 1, 2025, but that may not be realistic since reporting lines are generally done at the start of the year to be consistent for the entire year reporting. This timeframe would require adoption by the Blanks (E) Working Group by August 2024 and if it cannot be done by that time, it would likely be Jan. 1, 2026. Bruggeman stated that, due to the time requirements Life Risk-Based Capital (E) Working Group needs to be able to change the collateral loan charge, they would need something exposed early in 2025 to make that happen for year-end 2025. He stated that he wants to make sure that the timing is considered not just for the Working Group, but also for the Blanks (E) Working Group and Life Risk-Based Capital (E) Working Group processes.

Tipton thanked NAIC staff for meeting with interested parties about this agenda item earlier in the week. He stated that interested parties really got good clarification, especially on the disclosure item and they envision that being adopted for 2024. He stated that interested parties will work with the Blanks (E) Working Group in getting that framework and structure worked out. He stated that interested parties have been working with NAIC staff over the past six months on scheduling and reporting changes, so, they realize this is critical. He stated that interested parties realize there is Schedule BA reporting as it relates to collateral loans, and that they are appreciative of the opportunity to work with NAIC staff on that issue to do what they can to get it done for year-end 2025. Tipton also stated that interested parties realize there is a lot of interconnectedness to this project and they look forward to working with NAIC staff over the next couple of months on this and getting it done.

Kasinow made a motion, seconded by Hudson, to adopt the new SSAP No. 21R collateral loan disclosure for year-end 2024 (Attachment ___) and sponsor a blanks proposal, and to expose Schedule BA reporting revisions, for

April 19, with a request for information on AVR from industry, including a referral to the Life Risk-Based Capital (E) Working Group.

2. Discussed Other Matters

Gann stated that the Working Group received a referral from the Life Risk-Based Capital (E) Working Group regarding proposed RBC changes for repurchase agreements originating from the American Council of Life Insurers (ACLI) (Attachment ____). She stated that the proposal is to mirror treatment for certain repurchase agreements, which meet the conforming criteria that currently exists for security lending. She stated that the referral was asking the Working Group to consider this request based on the accounting and reporting aspects. Gann stated that NAIC staff has reviewed that proposal and have noted accounting differences between repurchase agreements and security lending programs. She stated that the Working Group has been asked to provide an immediate response with regards to comments. Gann stated that NAIC staff has drafted a response requesting a delay, or a deferral of consideration of this RBC change to allow for further assessment and convergence of accounting and reporting for securities lending and repurchase agreements. She stated that there were four items NAIC staff identified with the preliminary review of the referral. First, accounting and reporting is different between the two structures. Second, the revisions would require a new general interrogatory for reporting entities to capture the repurchase collateral from conforming programs. Third, there are questions on the location of the conforming guidance and in determining whether a program is conforming. Fourth, NAIC staff took a review of the reporting of the securities lending conforming programs. Gann stated that the review identified very few entities that reported any securities lending program as a nonconforming program, however, she noted that instances were noted in which the collateral reported on Schedule DL did not qualify within the acceptable collateral requirements. She stated that NAIC staff noted that the securities lending guidance was incorporated before the financial crisis of 2008 and, since that time, there have been many changes to how securities lending transactions are reported. Gann stated that NAIC staff suggests the Working Group receive the referral and direct the response letter, included in the meeting materials, to the Life Risk-Based Capital (E) Working Group.

Bruggeman stated that it is up to the Life Risk-Based Capital (E) Working Group to decide whether to have a consistent charge between the two types of programs. He stated that it still warrants Statutory Accounting Principles (E) Working Group going through the process to make sure the data and documentation are in the correct places to lend support for what Life Risk-Based Capital (E) Working Group decides to do and have the structure in place to make that happen.

Walker made a motion, seconded by Hudson, to have the Working Group respond to the Life Risk-Based Capital (E) Working Group referral (Attachment____) and to direct NAIC staff to draft an agenda item to potentially update *SSAP No. 103R—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* as needed.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national_meetings/a_national_meeting_materials/2024/03-16-24_spring_national_meeting/hearing/04-sapwg_minutes_02-20-24.docx

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: New Market Tax Credits

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue: The New Market Tax Credits (NMTC) Program was established by Congress in December 2000 and permits individual and corporate taxpayers to receive a non-refundable tax credit against federal income taxes for making equity investments in financial intermediaries known as Community Development Entities (CDEs). CDEs that receive the tax credit allocation authority under the program are domestic corporations or partnerships that provide loans, investments, or financial counseling in low-income urban and rural communities. The tax credit provided to the investors total 39% of the total cost of the investment and is claimed over a seven-year period. The CDEs in turn use the capital raised to make investments in low-income communities. CDEs must apply annually to the CDFI Fund to compete for NMTC allocation authority. The NMTC program is currently subject to expiration but has been extended to Dec. 31, 2025. The NMTC Extension Act of 2021 (introduced February 2021) would make the NMTC program permanent, modify the credit to provide for an inflation adjustment to the limitation amount for the credit after 2021, and allow an offset against the alternative minimum tax for the credit.

The success of the federal NMTC program has led to states adopting their own NMTC legislation. Per one noted article, the majority of state NMTC programs follow the federal rules with some modifications that vary from state to state. State modifications have been noted to specifically target smaller businesses, simplifying the application process, prohibiting the use of real estate business, and capping the amount of tax credits that can be allocated to one project. The economic impact of the state NMTC programs is typically less than the impact of federal NMTC programs because the economic return to investors for state tax credits is generally lower than what they receive for federal credits. Some states require that state tax credits can only be used in conjunction with federal credits. Pairing federal and state programs is beneficial to the qualifying business as they keep more of the investment without an obligation to return as the investors gets more tax credits.

Overview of Federal Program:

- Federal government authorizes an annual credit authority for NMTCs (amount of tax credits available).
- The Community Development Fund Institutions (CDFI fund) is a division of the U.S. Treasury responsible for implementing the NMTC program. Since there are limited tax credits each year, the CDFI fund has a competitive application process for the right to grant tax credits to investors and to make qualified NMTC investments.
- The right to grant tax credits is referred to as “NMTC Allocation” and is awarded to Community Development Entities (CDEs) that invest in low-income communities. The CDEs offer the tax credits to cash investors, and then use the cash to make investments (typically loans to a qualifying project – a “Qualifying Active Low-Income Community Business” - QALICB) that further the mission and objectives of the NMTC program.

- The program specifies that the investor must provide cash as an equity investment (qualified equity investment – QEI) and it must stay invested in the CDE and the resulting NMTC qualifying project (QALICB) for a period of seven years.
 - The restrictions are specific that the investment is an equity investment as stock (other than nonqualified preferred) in an entity that is a corporation for federal tax purposes or any capital interest in an entity that is a partnership for federal tax purposes. (The investor is generally a 99.99% or 100% equity owner.)
- NMTC investments must remain in a qualified business for a seven-year period. Any principal amount repaid during that period must be reinvested by the CDE until the seven-year period expires. Most CDEs and investors avoid the reinvestment requirement and structure interest-only loans that prohibit principal repayment within the seven-year timeframe.
 - The 39% tax credit is provided as 5% of the investment in the first 3 years and then 6% of the investment for the next 4 years.
 - For tax purposes, the basis adjustment in the qualified equity investment is reduced by the amount of any new market tax credits on each credit allowance date.
 - Programs that cease to qualify are subject to tax credit recapture.
- Investors enter these transactions recognizing that the original investment amount will not be fully returned. Rather, a portion (or perhaps all) of the equity investment will be unpaid without an obligation to return from the borrowing business. NMTC investments with these terms have specific maturing terms / actions. One approach could be that an option (put/call) is held by the investor that gives them the right to sell its equity investment to the borrower for a nominal price.
- The designs are often complex and introduce leverage lenders to maximize tax credits to the equity investor:
 - Equity investor provides \$3M to acquire 100% equity interest in an investment fund.
 - Investment fund borrows \$7M from a leverage lender.
 - This results with a \$10M qualifying NMTC transaction, resulting with the equity investor receiving \$3.9M in tax credits over 7 years from an initial \$3M investment.
 - The investment fund provides two loans to the qualified low-income business (QALICB). The first loan is for the \$7M leverage loan, the second is for the \$3M equity investment.
 - Both loans only pay interest for the seven-year period to meet the NMTC terms.
 - At the conclusion of the 7 years, the project sponsor purchases the second loan via a ‘put/call’ agreement, converting the \$3M into a permanent subsidiary for the project.
 - The borrower / project sponsor refinances the \$7M loan to repay the leverage lender.
 - The ultimate result is that the equity investor received \$3.9M over 7 years in tax credits for \$3M.
- Example without leverage lender:
 - Investor provides a \$10M NMTC Investment
 - Investor receives \$3.9M in tax credits over seven years.
 - Investors receives \$7.4M of original investment at the end of the seven years.
 - Borrower keeps \$2.6M of the original investment to further their low-income qualifying activities.
 - Investor receives a net return of \$1.3M. (\$10M less \$3.9M tax credits less return of 7.4M principal.)

FASB Discussion

The FASB has a current Emerging Issues Task Force project to assess whether the proportional amortization method of accounting, which is used for Low-Income Housing Tax Credits (LIHTC), should be expanded to investments in tax credit structures beyond LIHTC. The proportional amortization method results in the tax credit investment being amortized in proportion to the allocation of tax credits in each period and allows the investment amortization and tax credits to be presented on a net basis within the income tax line item. Currently, investments in other tax credit structures are typically accounted for using the equity method or the cost method. Under the equity and cost methods, investment gains/losses and tax credits are presented on a gross basis on an entity's income statement. The FASB has received two requests asking that the proportional amortization method be made applicable to New Market Tax Credit Structures as well as other investment structures that are made primarily for the purpose of receiving tax credits and other tax benefits. The FASB added a project to the Emerging Issues Task Force agenda on Sept. 22, 2021. The FASB Task Force reached a consensus-for-exposure on June 16, 2022, that the proportional amortization method can be elected on a tax credit program by tax credit program basis. This proposed ASU was exposed in August 2022, with comments due Oct. 6, 2022. A final ASU is expected later in 2022 or early in 2023 (ASU 2023-02 was issued in March of 2023).

IRS Provisions – The NMTC is captured as a nonrefundable ‘general business credit’ and is limited to tax liability. If tax liability is not sufficient to take the credit, then the tax credit is subject to carryforward / carryback provisions. Per instructions from the *2021 Instructions for Form 3800 – General Business Credit*, general business credits that cannot be used because of a tax liability limit are first carried-back 1 year through an amended return. If there are unused credits after carrying back 1 year, the tax credit can be carried forward to each of the 20 tax years after the year of the credit.

Inflation Reduction Act Provisions – The Inflation Reduction Act was signed by President Biden on Aug. 16, 2022. Although there are several elements within the Act, it includes a 15% corporate minimum tax rate for corporations with at least \$1 billion in income and includes numerous investments in climate protection, clean energy production and tax credits aimed at reducing carbon emissions. Although the Act has been signed, several elements are pending further application guidance. From preliminary information, the act allows for general business credits, such as the low-income housing tax credit (LIHTC), new markets tax credit (NMTC), historic tax credit (HTC) and renewable energy tax credits (RETCs) to be taken against the minimum tax. **However, further monitoring of application / interpretation guidance that is still forthcoming is required to assess the actual application and impact of tax credits on companies subject to the minimum tax.**

Statutory Accounting Considerations:

- Although the design is an equity investment of stock or interest in a corporation or partnership, which would normally be subject to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, the intent of NMTC investments is for tax credits and not equity returns. As such, this structure is closer to the existing low-income housing tax credits guidance in *SSAP No. 93* than the partnership / LLC guidance in *SSAP No. 48*.
- Although *SSAP No. 93—Low Income Housing Tax Credit Property Investments* provides guidance for an equity investment, that provides tax credits with a limited (or zero) residual investment value, the guidance in *SSAP No. 93* is specific to LIHTC programs.
- It has been identified that there are structures that have been designed to resemble fixed-income notes that do not pay regular cash interest, but rather provide NMTC tax credits as interest returns. These structures are in substance that same as other investments in NMTC, with an underlying equity interest in the CDE that generates tax credits. However, they have been structured with a guarantee for compensatory interest in the form of cash for the amount of the tax credit expected to have been received that year. These structures are also being considered within scope of this agenda item. Such structures have to meet specific criteria to qualify for tax credits under the IRS rules.

Existing Authoritative Literature:

SSAP Authoritative Guidance:

• **SSAP No. 93—Low Income Housing Tax Credit Property Investments**

This statement establishes accounting principles for investments in federal certain state sponsored Low Income Housing Tax Credit (LIHTC) properties owned through limited liability entities that are flow-through entities for tax purposes. The guidance requires LIHTC investments to be initially recorded at cost and carried at proportional amortized cost unless the investment is identified as impaired. Under the proportional amortization method, amortization of the LLC investment is recognized in the income statement as a component of net investment income/expense and the current tax credit is accounted for as a component of income tax expense:

- Federal tax credits are recognized in the income statement as an offset to federal taxes in the tax reporting year in which the tax credit is utilized in accordance with *SSAP No. 101—Income Taxes*.
- State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized.
- Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101.

SSAP No. 93 indicates that immediate recognition of the entire benefit of the tax credit to be received during the term of the investment in a low-income housing project is not appropriate. It also indicates that low-income housing tax credits shall not be recognized in the financial statements before their inclusion in the investor's tax return.

• **SSAP No. 94R—Transferable and Non-Transferable State Tax Credits**

This statement establishes accounting principles for investments transferable and non-transferable state tax credits, with an explicit exclusion for LIHTCs (or similar tax credits) captured in scope of SSAP No. 93.

Guidance for admittance of state tax credits under this statement varies based on whether it is transferable or non-transferable:

Transferable – Per the SSAP, all the following criteria must be met for admittance:

- 1) The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise sell or transfer the credit;
- 2) The transferable state tax credit will expire is not used by a predetermined date; and
- 3) The transferable state tax credit can be applied against either state income tax or state premium tax.

Non-Transferable – Per the SSAP, all the following criteria must be met for admittance:

- 1) Successive holder of a state tax credit must redeem the credit by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry-over, carry-back, obtain a refund, sell or assign the credit;
- 2) The non-transferable state tax credit will expire if not used by the predetermined date; and
- 3) The non-transferable state tax credits can be applied against either state income tax or state premium tax.

Review of Existing Statutory Accounting Guidance for NMTC and Overall Application:

- Existing statutory accounting guidance does not encompass federal NMTC (or other federal tax credits), as SSAP No. 93 is limited to LIHTC and SSAP No. 94 is specific to state tax credits.
- Provisions in SSAP No. 93 do not fully address earned (received) tax credits that carryforward for future use.
- The admittance criteria in SSAP No. 94 are applied to characteristics that perhaps may not be factors that would impact admittance:
 - A tax credit that does not expire would be precluded as an admitted asset under the guidance.
 - A non-transferable tax credit that can be carried-forward, carried-back, able to be refunded or that can be sold or assigned is precluded as an admitted asset under the guidance.

Statutory Accounting Reporting Guidance:

Guaranteed and non-guaranteed federal low-income housing tax credits have separate reporting lines on Schedule BA along with an “all other” low-income housing tax credit line. The guidance is specific that these lines are only for low-income tax credits (or tax credits for affordable housing) that are in the form of a partnership or limited liability company. Non-qualifying LIHTC are to be reported in the “All Other” category. With this current guidance, there is no explicit reporting provision for tax credits that are not captured in LIHTC.

Reporting Lines and Instructions:

Guaranteed Federal Low Income Housing Tax Credit	
Unaffiliated	3599999
Affiliated	3699999
Non-Guaranteed Federal Low Income Housing Tax Credit	
Unaffiliated	3799999
Affiliated	3899999
Guaranteed State Low Income Housing Tax Credit	
Unaffiliated	3999999
Affiliated	4099999
Non-Guaranteed State Low Income Housing Tax Credit	
Unaffiliated	4199999
Affiliated	4299999
All Other Low Income Housing Tax Credit	
Unaffiliated	4399999
Affiliated	4499999

Low Income Housing Tax Credit

- Include: All Low Income Housing Tax Credit Investments (LIHTC or affordable housing) that are in the form of a Limited Partnership or a Limited Liability Company including those investments that have the following risk mitigation factors:
- A. Guaranteed Low Income Housing Tax Credit Investments. There must be an all-inclusive guarantee from a CRP-rated entity that guarantees the yield on the investment.
 - B. Non-guaranteed Low Income Housing Tax Credit Investments.
 - I. A level of leverage below 50%. For a LIHTC Fund, the level of leverage is measured at the fund level.

- II. There is a Tax Credit Guarantee Agreement from General Partner or managing member. This agreement requires the General Partner or managing member to reimburse investors for any shortfalls in tax credits due to errors of compliance, for the life of the partnership. For a LIHTC Fund, a Tax Credit Guarantee is required from the developers of the lower tier LIHTC properties to the upper tier partnership and all other LIHTC investments.
- III. There are sufficient operating reserves, capital replacement reserves and/or operating deficit guarantees present to mitigate foreseeable foreclosure risk at the time of the investment.

Non-qualifying LIHTCs should be reported in the “All Other” category

Statutory Accounting RBC Impact:

Life: The RBC factor for LIHTC are captured as part of the real estate on LR007:

(17)	Federal Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 75	0.0014
(18)	Federal Non-Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 76	0.0260
(19)	State Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 77	0.0014
(20)	State Non-Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 78	0.0260
(21)	All Other Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 79	0.1500
(22)	Total Schedule BA Real Estate	Lines (16) + (17) + (18) + (19) + (20) + (21)	

P/C and Health: The RBC factors for LIHTC are captured as components of other long-term assets. The reporting lines and factors are the same as they are for life (as shown above).

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): NA

Recommendation:

NAIC staff recommend that the Working Group expose additional revisions described below to SSAP No. 93 and SSAP No. 94R. Staff also recommends that the Working Group expose changes to SSAP No. 34—*Investment Income Due and Accrued* and SSAP No. 48—*Joint Ventures, Partnerships and Limited Liability Companies*, which detail miscellaneous changes which update the scope of each statement for the proposed updates to SSAP No. 93 and SSAP No. 94R. The following are key revisions to SSAP No. 93R and 94R are proposed for exposure:

- *SSAP No. 93R—Investments in Tax Credit Structures* – NAIC staff recommends the following revisions in response to comments, from interested parties, public comments and NAIC staff internal review:
 - Various editorial changes to the admittance test described in paragraph 18 to clarify technical aspects of the assessment.
 - Addition of a Glossary of key terms at the end of the SSAP.
 - Revised guidance effective date to be 1/1/2025, applied prospectively without option to early adopt.
 - Added a new paragraph to the Impairment of Tax Credit Investments section to provide guidance on tax credit programs which allocate variable amounts of tax credits.

- Clarified in footnote 4 that tax credit strips derived from tax equity investments are not an example of an investment structure exempt from the audit requirement.
- Added disclosures for unused tax credits allocated from tax credit investments as these tax credits would not be within the scope of SSAP No. 94R disclosures.
- SSAP No. 94R—State and Federal Tax Credits – NAIC staff recommends the following revisions in response to comments, from interested parties, public comments and NAIC staff internal review:
 - Revised guidance effective date to be 1/1/2025 with early adoption permitted.
 - Added language to clarify that awarded tax credits (neither purchased nor allocated from an investment) are not within the scope of SSAP No. 94R.
 - Added commitment and contingency guidance to the Accounting and Disclosure sections.
- Other SSAPs – In response to the proposed revisions to SSAP Nos 93 and 94R, NAIC staff recommends the following:
 - SSAP No. 34—Investment Income Due and Accrued – Staff proposes revisions to clarify that tax credits earned or purchased are not within the scope of SSAP No. 34.
 - SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies – Staff proposes revisions which update paragraph 2 for the new tax credit investment language.

Interested parties’ comment letter recommended revisions which would narrow the scope of the paragraph 18 admittance test to only tax credit investments which allocate non-transferable tax credit and prohibit the sale of ownership interests. NAIC staff did not revise the SSAP No. 93R draft for these recommendations but intends to continue working with industry to address their concerns that the new guidance may non-admit previously admitted tax credit investments.

Additionally, NAIC staff requests comments on the annual statement reporting categories for tax credit investment RBC. The current RBC categories are LIHTC Investment specific and are mapped to the real estate grouping.

Staff Review Completed by: William Oden and Julie Gann - NAIC Staff, May 2023

Status:

December 13, 2022 - Fall National Meeting Recommendation:

NAIC staff recommends that the Working Group direct NAIC staff to draft statutory accounting guidance in the form of a new or revised SSAP that expands the current LIHTC guidance for equity investments that general federal business tax credit and state premium tax credits. Although this agenda item is focusing on NMTC, it is recommended that consideration be given to guidance that does not name specific designs, such as NMTC or other specific tax credits, so that it can be applicable for all qualifying tax equity investments. This guidance will consider the proposed FASB guidance as well as admittance and impairment provisions, recognizing that tax credits cannot be used to provide direct payment to policyholders, but rather are utilized to impact a reporting entity’s tax liability. This agenda item also recommends a review of SSAP No. 94—Transferable and Non-Transferable State Tax Credits to ensure the guidance properly reflects items that should be captured in scope and appropriate admittance provisions. With the proposal of a new or revised SSAP, this agenda item is proposed to be captured as a ‘New SAP Concept’ with a corresponding issue paper. Along with statutory accounting revisions, a resulting blanks proposal and a potential RBC referral are anticipated to update blanks reporting and RBC references accordingly. As detailed within, all Schedule BA reporting lines and RBC instructions (for both federal and state) only reference Low-Income Housing Tax Credits. The BA instructions also need to be updated as the concept for ‘guaranteed’ provisions from a CRP-rated entity seems to only be applicable to limited NMTC designs, as a guarantee may disqualify an entity from being able to use tax credits under IRS provisions.

On December 13, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a new SAP concept, and exposed a discussion document to expand current statutory

accounting guidance for low-income housing tax credits to capture all tax equity investments that provide general federal business tax credit and state premium tax credits if they meet specified criteria.

On February 10, 2023, NAIC staff received Interested Parties' comment letter on the exposed discussion document which were presented to the Working Group:

Interested parties agree with having uniformity in accounting and reporting for equity investments for which the return is earned primarily through tax credits. Interested parties agree that the proportional amortization method is an appropriate method to use for any type of investment (debt or equity) where the return is primarily earned through tax credits. We are providing responses to the questions exposed in the Discussion Paper in this document. There are two key take aways from our responses:

1. Interested parties ask the Working Group to consider allowing for the reporting of both the amortization of the investments and the use of the tax credits themselves in the same income statement line similar to what is required under U.S. GAAP.
2. Interested parties have concerns regarding tax credit investments that are issued in debt form and requiring those investments to be reported on Schedule BA instead of Schedule D. Interested parties believe that tax credit investments issued in debt form are better suited for Schedule D reporting.

March 22, 2023 – Spring National Meeting Recommendation:

NAIC staff recommends that the Working Group direct NAIC staff to proceed with drafting revised statutory accounting guidance and a related issue paper to expand the guidance in SSAP No. 93 for tax credits, as well as to draft revisions to SSAP No. 94—Transferable and Non-Transferable State Tax Credits for future Working Group discussion. NAIC staff proposes to consider the feedback from interested parties on the discussion document as well as the revised FASB guidance, which is expected to be issued in the near future, in updating the proposed revised statutory accounting guidance for subsequent exposure consideration.

On March 22, 2023, the Statutory Accounting Principles (E) Working Group directed NAIC staff to draft statutory accounting guidance in the form of a new or revised SSAP that expands the current LIHTC guidance for equity investments that general federal business tax credit and state premium tax credits.

May 16, 2023 – Interim Meeting Recommendation:

NAIC staff recommend that the Working Group include this item on their maintenance agenda as a new SAP concept and expose the draft revisions to SSAP No. 93 and SSAP No. 94R, which intend to capture all tax equity investments that provide federal business tax credit and state premium tax credits if they meet specified criteria.

On May 16, 2023, the Statutory Accounting Principles (E) Working Group exposed revisions to SSAP No. 93 and 94R. The revisions to SSAP No. 93 propose adoption with modification of *ASU 2023-02—Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method* 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.

On June 20, 2023, NAIC staff received Interested Parties' comment letter on the exposed revisions to SSAP Nos. 93 and 94R. Interested Parties provided several comments on both SSAPs which are summarized below along with NAIC Staff responses.

The comments provided on SSAP No. 93 were:

1. Interested Parties noted that paragraph 3 does not provide specific direction for which SSAPs would be applicable for tax credit investment which do not fall within SSAP No. 93.

- a. NAIC Staff agreed with the recommendation and updated paragraph 3 to provide readers with specific SSAPs which could apply to non-qualifying equity or debt structure tax credit investments.
2. Interested Parties noted that the current draft directed readers to refer to SSAP 94R for how to account for tax credits allocated from tax credit investments. They felt that this cross-reference was confusing and could potentially lead to conflicting interpretations.
 - a. To reduce confusion, NAIC Staff opted to remove the paragraph directing readers to SSAP 94R and instead pulled in the specific paragraphs from SSAP 94R which would be applicable to tax credits allocated from tax credit investments.
3. Interest Parties noted that they were unclear on whether the tax credits earned, or the tax credit investments were subject to the admittance criteria detailed in Paragraphs 18(a)-(c). Interested Parties feels that admissibility concerns are adequately addressed by the tax opinion and audit requirements. Additionally, if NAIC Staff's concern is the admittance of tax credits carried forward to a future period, then this should be adequately addressed by the admittance rules detailed in *SSAP No. 101–Income Taxes for Deferred Tax Assets*. Interested Parties suggested that paragraphs 18(a)-(c) be deleted in full.
 - a. NAIC Staff noted that the admittance rules detailed in paragraphs 18(a)-(c) do NOT provide guidance on the admittance of allocated tax credits. For tax credit investment structures to fall within the scope of SSAP 93, substantially all benefits must be from tax credits or other tax benefits which essentially means that balance of a tax credit investment represents a future stream of tax credits and tax benefit. As such, the admittance rules in paragraph 18(a)-(c) would require a company to assess its ability to utilize that future stream of tax credits to what amount of the tax credit investment would be non-admitted. If the company's projections determine it will be unable to substantially utilize the future stream of tax credits (i.e., the tax credit investment balance) then potentially all or a portion of the tax credit investment would be considered non-admitted as the company is unable to utilize the future stream of tax credits to offset tax liabilities.
4. Interested Parties noted that GAAP requires retrospective adoption of ASU 2023-02 and that this would result in GAAP vs. Statutory accounting differences.
 - a. NAIC Staff noted that prospective adoptions of accounting updates are often simpler to implement than retrospective adoptions. However, since this would lead to unintended variance between GAAP and Stat NAIC Staff has updated SSAP 93 to be adopted on the retrospective basis to conform with the GAAP adoption requirements.

The comments provided on SSAP No. 94R were:

1. Interest Parties requested that paragraph 1 of the scope of statement section be amended to clarify which types of tax credits are within scope of SSAP No. 94R. Interested Parties feel that the key difference between SSAP 94R and SSAP 93 is that the former is for purchased tax credits and the latter is for tax credits earned from investments.
 - a. NAIC Staff generally agree with the comments provided but opted to remove the term “certificate” from the requested changes. The intent of SSAP No. 94R is to provide guidance on all purchased state and federal tax credits, not just certificated tax credits. NAIC Staff also included language to clarify the scope of SSAP No. 94R for allocated tax credits, as detailed in the next bullet point.
2. Interested Parties noted that they do not believe allocated tax credits from SSAP No. 93 investments should be within the scope of SSAP No. 94R as the guidance was confusing and could potentially lead to conflicting interpretations. Additionally, Interested Parties believe that tax credits from investments vs. purchased tax credits are distinctly different assets. The only similarity in accounting for the tax credits relates to instances when the credits earned under a SSAP No. 93 investment cannot be utilized in the current year. Under that scenario, a DTA would be recorded, which would be subject to the admissibility rules under SSAP No. 101.
 - a. NAIC Staff elected to remove tax credits allocated from SSAP No. 93 investments from the scope of SSAP No. 94R to avoid confusion. However, NAIC Staff note that tax credits earned from investments bear many similarities to purchased tax credits. Irrespective of how the tax credit are acquired, they represent the same type of financial instruments which can be utilized as an offset to tax liabilities, sold, or redeemed for cash as a tax refund. Additionally, irrespective of how the

- tax credits are earned they are recorded at face value upon acquisition. The only significant difference is that tax credits purchased at a premium or discount may result in a recognized loss or deferred gain, respectively, whereas any premium or discount on an allocated tax credit is recognized as part of proportional amortization calculation.
- b. NAIC Staff amended the draft to exclude tax credits allocated from SSAP No. 93 investments in response to the Interested Party comments on SSAP No. 93. However, NAIC Staff did include language noting that allocated tax credits earned from tax credit investments NOT within the scope of SSAP No. 93 should refer to SSAP 94R for guidance on how to record allocated tax credits. NAIC staff noted that without this language there would be no guidance within Accounting Practices and Procedures Manual for allocated tax credits from investments which fall outside the scope of SSAP No. 93.
3. Interested Parties noted that most tax certificates reduce a reporting entity's tax liability and do not directly impact the income statement at the time they are used. In addition, interested parties believe that upon purchase, the tax credits should be reported as an other-than-invested asset since the asset represents a right to receive future benefits. As the tax credits become available for use, a reduction to the insurer's income tax payable or premium/state taxes payable should take place.
 - a. NAIC Staff disagrees with this proposed change as purchased federal tax credits would be reported as other-than-invested assets, versus allocated federal tax credits which would reported as a deferred tax asset. This would result in the same type of asset being reported on two separate lines based on the manner in which it was acquired. As noted above, NAIC Staff's position is that allocated and purchased tax credits are substantially the same assets irrespective of the way in which they are acquired. Additionally, the Interested Parties also proposes that if a tax credit cannot be utilized in the same period in which it was purchased it should be transferred to Deferred Tax Assets. NAIC Staff notes that this does not resolve the short-term reporting discrepancy noted previously and adds further complications to the accounting process by requiring a reporting line transfer if the asset is held for longer than a year.
 4. Interested Parties noted that the accounting for purchased tax credits in the SSAP No. 94R exposure is different from the current guidance in that the credits will be recorded at face value instead of at cost. This is not an issue perse but Interested Parties did want to point out this discrepancy as compared to the accounting treatment for other assets like bonds and mortgage loans.
 - a. NAIC Staff's position is that tax credits, whether received via purchase or allocation, do not represent investments, and has opted to propose accounting guidance that differs from bonds or mortgage loans. The position that tax credits do not represent investments was the main reason for the original SSAP No. 94R guidance which required state tax credits be recorded to Other Than Invested Assets and effectively required companies tax credits purchased at a discount at cost and effectively defer the gain off the balance sheet. NAIC Staff felt that it would be less confusing and provide a more accurate financial picture to record the tax credit at face value and defer any gains from discount purchases on the balance sheet.
 5. Interested Parties proposed changes to Exhibit B to reflect a pro-rata utilization of purchased tax credits in relation to the quarterly accrual of income tax liabilities. The main purpose of these changes were to reflect Interested Parties' proposed changes in item #2.
 - a. NAIC Staff made these changes to Exhibit B and believe that this method of recognizing tax credit utilization is applicable to exposed draft of SSAP No. 94R.

Outside of the changes made in response to Interested Parties' Comment Letter, both Exhibits in SSAP No. 93 were revised to provide example journal entries of the Proportional Amortization method. Additionally, the assumptions in Exhibit B were revised so it would provide a journal entry example for a residual sale at the end of the proportional amortization period. A new footnote was also added to SSAP No. 94R on page 2 based verbal comments received from the public. The new footnote provides clarification on what processes constitute a purchase vs an allocation of tax credits.

August 13, 2023 - Summer National Meeting Recommendation:

NAIC staff recommend that the Working Group expose additional revisions described below to SSAP No. 93 and SSAP No. 94R. Additionally, NAIC staff recognizes that revisions to the annual statement Schedule BA reporting lines will need to be considered, as well as how those reporting lines flow through to the AVR. NAIC staff recommends that the Working Group direct staff to work with interested parties throughout the interim to discuss to allow subsequent (or interim) exposure.

On August 13, 2023, the Statutory Accounting Principles (E) Working Group exposed additional revisions made to SSAP No. 93 and SSAP No. 94R. Additionally, the Working Group directed NAIC staff to work with interested parties to draft revisions to the annual statement instructions and reporting updates.

On September 29, 2023, NAIC received Interested Parties' comment letter on the exposed revisions to SSAP No. 93 and 94R. Interested Parties provided several comments on both SSAPs which are summarized below along with NAIC Staff responses (effective October 11, 2023). The comments provided on SSAP No. 93 are below and have been summarized for brevity and clarity:

- 1) Interested Parties noted that SSAP 93 Paragraph 18 requires reporting entities to annually assess the future utilization of the unallocated tax credits associated with an entity's ownership interest in a tax credit investment project to determine if the investment can be admitted. However, Interested Parties suggest that this admittance criteria only be applicable to investments which do not allocate transferable or refundable tax credit and if the reporting entity is contractually restricted from selling its ownership interest. Additionally, Interested Parties suggest deleting paragraphs 18a and 18b as admissibility is adequately addressed through the impairment analysis required in paragraph 25; mainly that since both the tax credits and investment are saleable there is not a significant concern about the reporting entity's ability to utilize these investments and their tax credit returns for policyholder liabilities.
 - i. NAIC staff noted that Interested Parties' argument is twofold, first is that the usage of the investment fair value as a carve out in paragraphs 18a and 18b are confusing due to the requirement to test for impairment based on fair value. NAIC staff amended paragraph 18a to clarify that the carve out allows for admittance of the fair value of unallocated transferable/certificated tax credits rather than the fair value of the tax credit investment. The tax credit investment balance includes other tax benefits which cannot be sold apart from the investment ownership. The intent of paragraph 18a is to allow a reporting entity to at least admit the fair value of the tax credits which can be sold, which is potentially higher than the admitted amount calculated in paragraph 18.
 - ii. The second part of Interested Parties' argument is that since these investments may be sold, the admittance assessment of the reporting entity's ability to utilize the tax credits is not needed unless the reporting entity contractually restricted from the selling the investment. As part of this comment, it was noted that these investments may be actively managed and are readily saleable. NAIC staff noted that acquiring tax credit investments with the intent of re-sale puts an insurance company in a similar position as a syndicator in which tax credit investments are developed or acquired for the purpose of sale. SSAP 93 was revised under the assumption that tax credit investments are acquired for the purpose of obtaining returns through the receipt of tax credits and other tax benefits rather than through the sale of the tax credit investment. NAIC staff does not believe the paragraph 18 admittance criteria should be amended to provide a carve out for actively managed tax credit investments as it is not feasible to delineate between tax credit investments purchased for sale vs. purchased for generation of tax benefits without introducing some kind of available-for-sale and held-to-maturity framework which is not compatible with statutory accounting concepts. NAIC staff noted that restrictions which prevent investors from selling their ownership represent a minority of tax credit programs. As such, limiting the scope of paragraph 18 to only tax credit investments which cannot be sold would

effectively carve out the majority of tax credit investment structures from its scope. Additionally, the assertion that these investments are readily saleable does not change the fact that the balance sheet value of a tax credit investment is predicated on the assumption that the company can use the tax credits and benefits and if they company cannot use these tax credits then the investment returns have no value. Until the investment has been sold, its ability to satisfy future policyholder obligations is beholden to the company's ability to utilize the generated tax credits and benefits. Interested Parties noted that there are other investments which do not have as stringent admittance criteria as have been proposed in paragraph 18. NAIC staff note that other investments generate returns primarily through the receipt of fungible cash income or by providing a claim to the entity's earnings and assets (bonds, stocks, joint ventures, partnerships and LLCs). In comparison, the main purpose of a tax credit investment is to provide returns in the form of tax credits and other tax benefits, and this purpose is further borne out by the commonly used partnership flip structure for tax credit investments and that once the tax credits have been fully allocated the residual value of a tax credit investment is typically nominal.

- iii. Additionally, the requirement to assess tax credit investments by looking at the company's ability to realize future tax credits is not a new concept. Under existing OTTI guidance companies are required to record OTTI if the company determines it is probable that future tax benefits will not be received as expected (SSAP No. 93 paragraph 17, sentence 1). Per SSAP No. 93 paragraph 17, to determine if OTTI has occurred companies are required to assess whether the investment will continue to issue the tax credits as anticipated (see sentence 5) AND whether the company will be able to realize/utilize the future tax benefits to be received (see sentences 2 and 3). As part of the re-write of SSAP No. 93 Staff moved the requirement to assess the company's ability to utilize future tax credits out of impairment to admissibility. As currently revised, the impairment test specifically addresses the functionality of the investment whereas the paragraph 18 admittance test specifically addresses the ability of the company to realize/utilize the future tax benefits. This change intended to simplify the impairment analysis by focusing on investment functionality, but also because Staff felt that the company's ability to utilize/realize future tax benefits was more accurately characterized as an admittance concern rather than an impairment of the investment itself.
- 2) Interested Parties suggested a number of editorial changes to affect clearer guidance in paragraphs 18 and 18a. These included clarifying that the paragraph 18 assessment of unallocated tax credit utilization should be performed over the life of the tax credits rather than the life of the investments, including its carryforward periods. Interested Parties also suggested clarifying in paragraph 18 that tax planning strategies are to be used when assessing the utilization of unallocated tax credits, similar to the valuation allowance requirements under SSAP No. 101. In paragraph 18a Interested Parties suggested removing the sentence detailing what to do if fair value is not non-determinable.
 - i. NAIC staff agreed with substantially all the editorial clarifications suggested by Interested Parties and updated accordingly.
 - 3) Interested Parties suggested adding a definitions section to the guidance regarding the following terminology:
 - "unallocated tax credits" - the portion of tax credits expected to be earned and allocated to the reporting entity through the investment structure.
 - "current portion" - the credits to be allocated within one year of the reporting period.

- i. NAIC staff agreed with the suggestion by Interested Parties to add definitions and updated accordingly with some minor modifications. NAIC staff also added some additional definitions to provide clarifications on other terms used in SSAP 93.
- 4) Interested Parties suggested that the new SSAP 93 be applied prospectively effective 1/1/2025, but no early adoption.
- i. NAIC staff agreed with the changes suggested by Interested Parties and updated accordingly.

The comments provided on SSAP No. 94R are below and have been summarized for brevity:

- 5) Interested parties suggested that the revised SSAP 94R also be applied prospectively effective 1/1/2025 with early adoption permitted. Additionally, Interested Parties suggested a clarification of the scope of SSAP 94R by adding the following language to paragraph 1:

“This statement establishes statutory accounting principles for state and federal tax credits that are purchased by the reporting entity without being an bond or equity investor in the entity from which the tax credit were purchased.”

- i. NAIC staff agrees with prospective application of SSAP 94R with an effective date of 1/1/2025, however we have elected to not include the changes to the scope of SSAP 94R. The reasoning is that this guidance intends to exclude tax credits allocated from SSAP 93 investments, which does not specifically identify which tax credit investment structures are within scope of the guidance. However, NAIC staff did make other adjustments to the scope paragraph to better clarify that tax credits from SSAP No. 93 investments are not within scope of SSAP 94R.

On December 1, 2023, the Statutory Accounting Principles (E) Working Group exposed revisions made to SSAP Nos. 34, 48R, 93, and 94R as part of the new market tax credit project. Revisions to SSAP No. 93 include a glossary of key terms, impairment guidance on variable tax credit allocations, disclosures on unused tax credits, and editorial changes to paragraph 18. Revisions to SSAP No. 94R include guidance clarifying that awarded tax credits are not within scope and commitment/contingency language. The exposure includes new revisions to SSAP Nos. 34 and 48 which clarified that tax credits are not within the scope of investment income guidance and updated for new SSAP No. 93 language, respectively. Additionally, the Working Group requested comments from regulators and industry on new RBC reporting categories.

On January 29, 2024, the Statutory Accounting Principles (E) Working Group exposed, through an evote, further revisions made to SSAP Nos. 93R and 94R as part of the New Market Tax Credit project. Revisions to SSAP No. 93 and 94R included minor consistency and clarifying revisions. More substantial revisions were made to SSAP No. 93 in response to concerns raised by interested parties over the administrative burden of the paragraph 18 admittance tests (now referred to as the Prospective Utilization Assessment). The Prospective Utilization Assessment was revised to remove the initial assessment of the current portion of unallocated tax credits and replaced with language that required companies to perform the Prospective Utilization Assessment only if certain conditions exist.

<https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24SpringNationalMeeting/Hearing/05-22-14-NMTC.docx>

Note: The issue paper will include the final revisions made to SSAP No. 93—Low-Income Housing Tax Credit Property Investments shown as tracked changes. ASC references will be removed from the final document.

*Spring National Meeting Exposure Draft: Revisions to the exposure draft of SSAP No. 93 made **after** the exposure on January 31, 2024, have been shown as tracked changes highlighted in grey.*

Statements of Statutory Accounting Principles No. 93 - Revised

Investments in Tax Credit Structures

STATUS

Type of Issue.....	Common Area
Issued	June 13, 2005; Substantively revised XX XX , 202x
Effective Date	January 1, 2006; Substantive revisions detailed in Issue Paper No. xxx effective XX XX , 202x
Affects.....	No other pronouncements
Affected by	No other pronouncements
Interpreted by	INT 06-07
Relevant Appendix A Guidance	None

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SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for qualifying tax credit investments¹ in programs made primarily for the purpose of receiving allowable general business federal tax credits and/or state tax credits, including state premium tax credit programs. Although these investments are often in the form of equity, this statement shall be applied to all investments (regardless of the structure of the investment) that qualify pursuant to paragraph 2.

2. A reporting entity that invests in projects or programs that generate general business federal tax credits, corresponding state tax credits or state premium tax credits that meet the following conditions at the time of initial investment are required to capture the investment in scope of this statement:

- a. It is probable that the tax credits allocable to the investor will be available.
- b. Reporting entity investor does not have the ability to exercise significant influence over the operating and financial policies of the underlying projects.
- c. Substantially all the projected benefits are from tax credits and other tax benefits, determined on a discounted basis using a discount rate that is consistent with the cash flow assumptions utilized by the reporting entity for the purpose of deciding to invest in the project.
- d. The reporting entity's projected yield based solely on the cash flows from the tax credits and other tax benefits is positive.

3. Tax credit investments that do not meet the conditions in paragraph 2 shall be captured within the statutory accounting statement that addresses the underlying investment structure. Equity structured tax credit investments would generally fall within *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Debt structured tax credit investments should be assessed in accordance with *SSAP No. 26R—Bonds* to determine eligibility for reporting as a bond.

4. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors, to make venture capital investments in “qualified” businesses, are not within the scope of this statement. Although associated with tax credits, the reporting entity is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the reporting entity will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

5. Investments in tax credit structures are generally acquired to obtain a positive yield through tax credits and other tax benefits. The value of the investment is primarily based on the value of the remaining stream of tax credits and deductible expenses available to the reporting entity investor. The primary purpose of investing in these tax credit structures is to generate tax credits which benefit reporting entities, most commonly through a reduction in tax liability or, when permitted by IRS or state tax provisions, through the sale of certificated/transferable tax credits.

¹ The scope of *ASC 323-740—Investments—Equity Method and Joint Ventures—Income Taxes—Proportional Amortization Method* only extends to income tax equity investments, whereas this statement is intended to capture all tax credit investments which meet the criteria in paragraphs 2.a-2.d, regardless of structure. This includes, but is not limited to, tax equity investments and tax credit debt investments.

6. Investments in tax credit structures held by reporting entities meet the definition of an asset as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement.

Accounting

7. This guidance addresses the methodology for measuring an investment that is accounted for using the proportional amortization method. At initial recognition, investments in scope of this statement shall be recorded at cost.

8. Subsequent to initial recognition, the investment shall be carried at proportional amortized cost. Under the proportional amortization method, the reporting entity amortizes the initial cost of the investment in proportion to the tax credits and other tax benefits allocated to the investor. The amortization amount shall be calculated as follows (ASC 323-740-35-2):

- a. The initial investment balance less any expected residual value of the investment, multiplied by;
- b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the amortization timeframe (life of the investment).

9. Reporting entities shall recognize tax credits in the period they are allocated to the investor for tax purposes. Unless all tax credits are allocated to the reporting entity at the date of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of the investment project that generates tax credits and other tax benefits is not permitted. Tax credits shall not be recognized in the financial statements before the year in which the tax credits are allocated. (ASC 323-740-25-5)

10. Any expected residual value of the investment shall be excluded from the proportional amortization calculation. Non-tax related benefits received from the investment shall be included as a component of net investment income when realized or realizable. Gains or losses on the sale of the investment, if any, shall be included as a capital gain or loss at the time of the sale. (ASC 323-740-35-5) Determination of gain or loss will depend on the reported value (e.g., residual value at the end of the amortization timeframe) compared to the amount received in exchange for the investment. Liquidation of the investment commonly occurs at the end of the tax credit timeframe through a put or call agreement, often reflecting a nominal residual value that was established at the time of acquisition. The liquidation amount from such agreements shall reflect the expected residual value when available.

11. At the end of the amortization timeframe, if the reporting entity retains the investment, the investment shall be subsequently measured and assessed within the statutory accounting statement applicable to the investment held. Retained investments will remain on Schedule BA until disposal and cannot exceed the initial expected residual value.

12. Exhibit A illustrates the application of accounting guidance in two examples that generate tax credits and tax benefits using the proportional amortization method. The first example illustrates the application of a standard project. The second example illustrates the application of accounting guidance in a project that has expected residual value and generates non-tax related benefits in addition to tax credits and other tax benefits using the proportional amortization method. (ASC 323-740-35-3)

Application of Proportional Amortization Method

13. Under the proportional amortized cost method, the amortization of the investment is to be recognized in the income statement as an expense component of the net investment income calculation.

Non-tax related benefits received from operations, or sale of the investment should be accounted for in accordance with paragraph 10.

14. Tax credits and other tax benefits, not to include amortization of the investment, shall be reflected as follows:

- a. Tax credits shall be recognized in the period that they are allocated to the reporting entity for tax purposes:
 - i. Federal tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101—Income Taxes*. Federal tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with *SSAP No. 101*.
 - ii. State tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested assets (not to be reported net).
 - iii. Use of tax credits carried forward in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.
 - iv. Tax credits allocated from tax credit investments, as defined within this *SSAP*, and held by reporting entities meet the definition of assets as specified in *SSAP No. 4* and are admitted assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to *SSAP No. 101*.
- b. Federal tax benefits other than tax credits (e.g., tax benefits from investment depreciation) shall be recognized in the year allocated pursuant to *SSAP No. 101*. When utilized, the federal tax benefits are recognized as a component of income tax expense.
- c. State tax benefits other than tax credits shall be recognized in the year allocated gross of any related state tax liabilities pursuant to *SSAP No. 101*. When utilized, the state tax benefits are recognized as a component of taxes, licenses, and fees.

Admittance of Tax Credit Investments

15. Although investments in tax credit programs do not represent investments that can be readily liquidated for policyholder claims, the reduction of tax liability or sale of allocated tax credits represents a benefit that supports admittance of these investments, but only if the tax credits will be received and can be utilized by the reporting entity. Investments in tax credit programs that will not result in any of the anticipated tax credits or that will result in tax credits which cannot be utilized or sold by the reporting entity shall be considered impaired and should refer to paragraphs 27 and 28.

16. Reporting entities shall, at initial investment, obtain a clean² fund level tax opinion³ on the validity of the credits and structure of the underlying program and investment fund. Investments not supported by an initial tax opinion shall be nonadmitted. If the program is a permitted syndicated program with a yield guarantee, the opinion must verify that the investment and guarantee have been properly structured under IRS or state tax provisions and the guarantee does not disqualify the reporting entity from obtaining the tax credits.

17. Reporting entities shall annually obtain U.S. GAAP or U.S. tax basis audited financial statements on the investment fund. In the event audited U.S. GAAP or U.S. tax basis financial statements are not obtained or the audit receives an opinion other than unqualified, the asset shall be nonadmitted. If the audited financial statements are in-process but not completed as of the annual statement filing deadline, the reporting entity may admit the investment based on the results of the immediately preceding prior year audited financial statements. A lag in reporting shall be consistent from period to period.

- a. Other tax credit investments – If the reporting entity has a tax credit investment which by virtue of its structure cannot be audited, the investment is exempt from the annual audit requirement. One example of this type of investments would be tax credit debt investments⁴ which do not involve any amount of equity ownership as a component of the investment. This type of tax credit debt investment is exempt from the annual audit requirement, but the reporting entity is still required to obtain a clean tax opinion, in accordance with paragraph 16, to support admittance at initial investment.

Prospective Utilization Assessment

18. The prospective utilization assessment, as detailed below in paragraphs 19-21, must be performed annually by the reporting entity if any of the following circumstances exist in either the current or prior reporting period:

- a. Reporting entity records a valuation allowance against a deferred tax asset (DTA) balance.
- b. Reporting entity becomes aware of other facts and circumstances which indicate that it will, more likely than not, be unable to substantially utilize the unallocated tax credits. Such instances include, but are not limited to:
 - i. If the reporting entity holds an investment which allocates state premium tax credits and intends to decrease premium volume in that state, it may affect whether or not the unallocated tax credits in that state can be utilized.
 - ii. If the reporting entity holds an investment allocating state income tax credits and records a valuation allowance in its U.S. GAAP financial statements against state DTA balances, including the same state as the tax credit investment, it cannot ignore the circumstances that led to the valuation allowance, even though statutory accounting does not permit state DTAs.

² While not quantified or defined in either the Internal Revenue Code or state regulations, common industry standards consider a “should” opinion to be the minimum degree of confidence associated with a clean tax opinion. For the purposes of this statement, a “should” opinion must represent a probability of success no less 70%. Any tax credit investment which receives a tax opinion with a degree of confidence less than “should” is to be nonadmitted.

³ A fund level tax opinion for the purposes of this statement is defined as a full IRS Circular 230 tax opinion which covers from the fund level through to the underlying assets generating the tax credit benefits. The fund level is defined as the entity, or level, at which the investor comes directly into the investment without any intermediaries.

⁴ Common examples of tax credit debt investments are Tax Credit Strips derived from tax credit bonds, Qualified Tax Credit Bonds, and Build America Tax Credit Bonds. Tax opinions received on these tax credit investments are also referred to as “bond counsels.” Tax Credit Strips derived from tax equity investments would not qualify for the [paragraph 17.a](#) carve out as the source of the stripped tax credits is auditable.

19. Prospective Utilization Assessment – If any of the circumstances detailed in paragraph 18 exist, the reporting entity is required to assess the future utilization of the investment’s unallocated tax credits against estimated tax liabilities and determine the extent to which it will be able to utilize the investment’s unallocated tax credits over the life of the tax credits. If assessment projections identify that the investment’s unallocated tax credits will exceed what can be utilized under IRS or state tax provisions, the reporting entity shall nonadmit investments as necessary so that investments in scope of this statement (in aggregate) are only admitted to the extent tax credits are expected to be utilized within current, carryback, and carryforward periods. In making this assessment, the reporting entity is not permitted to assume increased operations (e.g., expanded product sales) beyond those allowed under prudent and feasible tax-planning strategies to conclude that additional federal or state tax liability will exist that would allow additional utilization of tax credits. A reporting entity may subsequently admit a previously nonadmitted tax credit investment, based on subsequent assessments in which the reporting entity determines that they will be able to utilize the unallocated tax credits.

20. Additional Admittance to Prospective Utilization Assessment – If the tax credit investment allocates tax credits with the following features, the reporting entity may perform a secondary assessment to determine if additional amounts of the tax credit investment nonadmitted under paragraph 19 can be admitted:

- a. Tax credit investments which allocate tax credits which are certificated or transferable in accordance with permitted IRS or state tax provisions shall admit up to the lesser of the proportional amortized cost or fair value of the unallocated tax credits.
- b. Tax credit investments which allocate tax credits eligible for direct payment shall admit up to the lesser of the proportional amortized cost or the estimated proceeds from unallocated tax credits.

21. For tax credit investments which have an amortization timeframe greater than the tax credit allocation timeframe (as demonstrated in Exhibit A), the reporting entity would still, if required, perform the prospective utilization assessment but on the reporting entity’s ability to utilize the remaining stream of anticipated tax benefits.

Future Contributions and Additional Tax Credits

22. Many tax credit investments require future contributions by the investor, that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. A liability shall be recognized for delayed contributions which result in additional tax credits that are unconditional and legally binding, and a liability shall also be recognized for contributions which result in additional tax credits that are contingent upon a future event when that contingent event becomes probable pursuant to the loss contingency guidance in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*. (ASC 323-740-25-3) Liabilities or loss contingencies recognized for future contributions which result in additional tax credits shall be reported as ‘Payable for Securities’ until remitted or until the obligation is otherwise eliminated.

23. If a commitment to provide future contributions is not required to be recognized pursuant to paragraph 22, the commitment shall be disclosed in the notes to the financial statements with other commitments.

24. Additional contributions that do not result in additional tax credits for the reporting entity investor shall be immediately expensed as a component of net investment income.

25. If additional contributions result in additional tax credits for the reporting entity, the proportional amortization method for the tax credit investment shall be adjusted, on a prospective basis, to reflect the increased cost with the revised expected tax credits and other tax benefits.

26. In the event a reporting entity obtains additional tax credits without the reporting entity making additional contributions, the reporting entity shall not adjust the book/adjusted carrying value of the tax credit investment. (The proportional amortization method shall not be adjusted to reflect the expected additional tax credits.) Rather, the tax credit shall be recognized when allocated pursuant to paragraph 14.

Impairment of Tax Credit Investments

27. Reporting entities with investments in tax credit programs shall complete and document an impairment analysis at each reporting period. For this analysis, the reporting entity shall compare the current book/adjusted carrying value to the fair value of the investment. (If fair value is not determinable, an entity can compare book/adjusted carrying value to the present value of future tax credits and other tax benefits discounted at a risk-free rate of return.) If book/adjusted carrying value is higher, the difference between book/adjusted carrying value and fair value shall be recognized as an other-than-temporary impairment^(INT 06-07) to the tax credit investment. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value.

28. An other-than-temporary impairment shall also be considered to have occurred if a previously allocated tax credit has been recaptured or if it is probable that future tax credits will not be allocated as expected. If a project no longer qualifies for tax credits, the entire investment, less any residual established at initial recognition, shall be written off as other-than-temporarily impaired. If the reporting entity experiences a tax credit recapture, the reporting entity shall assess whether future tax credits and other benefits will qualify for use by the reporting entity. If future credits will not be generated or will be subject to future recapture, then the reporting entity shall write-off the investment as other-than-temporarily impaired so that the resulting investment value only reflects expected qualifying tax credits and other benefits expected to be allocated. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries or revision to tax credit expectations.

29. Certain tax credit programs allocate variable amounts of tax credits (for example, clean energy production tax credit programs) which will result in regular differences between actual allocated tax credits and estimated tax credit allocations as calculated upon acquisition of the investment. Variable tax credits allocated in excess of estimates should be accounted for in accordance with paragraph 26. If the allocated variable tax credits are less than estimates by more than 10% or consistently allocate less than the estimated amounts over multiple allocation periods, then the reporting entity must either recognize an other-than-temporary impairment or specifically address within its impairment analysis the reason why consistently diminished tax credit returns do not represent an impairment event. Note that if the company determines it is probable that the total amount of anticipated variable tax credits will not be received, it would still be considered an other-than-temporary impairment in accordance with paragraph 28.

Disclosures

30. A reporting entity shall disclose information that enables users of its financial statements to understand the following information about its investments in projects that generate tax credits and other tax benefits from tax programs captured in scope of this statement: (ASC 323-740-50-1)

- a. The nature of its investments in projects that generate tax credits and other tax benefits.
- b. The effect of the recognition and measurement of its investments in projects that generate tax credits and other tax benefits and the related tax credits on its financial position and results of operations.

31. To meet the objective of paragraph 30, a reporting entity shall disclose the following information about its investments in projects that generate tax credits and other tax benefits from a tax credit program in scope of this statement:

- a. The amount of tax credits and other tax benefits recognized during the reporting period(s).
- b. The balance of the investments recognized in the statement of financial position for the reporting period(s) presented.
- c. The amount of investment amortization and non-income tax related activity recognized as a component of net investment income, and other returns allocated that were recognized outside of income tax expense.
- d. An aggregate schedule of tax credits expected to be generated each year for the subsequent five years and thereafter, disaggregated by transferable/certificated and non-transferable.
- e. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of contributions that are contingent commitments related to tax credit investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.

32. The following disclosures shall be included if applicable to tax credit investments:

- a. If the underlying project is currently subject to any regulatory reviews and the status of such review. (Example: Investigations by the housing authority.)
- b. Significant modifications or events that resulted in a change in the nature of the investment or a change in the relationship with the underlying project for investments in scope. (ASC 323-740-50-1A)

33. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:

- a. A description of the impaired assets and the facts and circumstances leading to the impairment; and
- b. The amount of the impairment and how fair value was determined.

34. The following disclosures pertain only to those tax credits allocated from tax credit investments and are unused as of the reporting period(s). For purposes of this disclosure, total unused tax credits represent the entire amount of tax credits available:

- a. Carrying value of tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related tax liabilities by jurisdiction and in total.
- b. Total unused tax credits by jurisdiction, disaggregated by transferable/certificated and non-transferable.
- c. Method of estimating utilization of remaining tax credits or other projected recovery of the current carrying value.
- d. Impairment amount recognized in the reporting period(s), if any.
- e. Identify tax credits by transferable/certificated and non-transferable classifications and identify the admitted and nonadmitted portions of each classification.

35. Refer to the Preamble for further discussion regarding disclosure requirements.

Relevant Literature

36. This statement adopts with modification *Accounting Standards Update (ASU) 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. The ASU is modified for the following statutory concepts:

- a. This statement is applicable to all federal and state tax credit programs earned through any tax credit investment structure that meets the requirements in paragraph 2. Under the ASU, use of the proportional amortization method is an election and only pertains to income tax equity investment structures in which the reporting entity does not exercise significant influence. With this statement, the U.S. GAAP election to use the proportional amortization method is rejected and use of proportional amortization for investments within the scope of this statement is required. The guidance is expanded for state premium tax credits.
- b. Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be allocated by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements. Under the ASU, a practical expedient is allowed for the calculation of proportional amortization but has been rejected with this statement.
- c. Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.
- d. Tax benefits allocated, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.
- e. Reporting entities shall follow the guidance in paragraphs 22 and 23 regarding the recognition of contingent commitments from SSAP No. 5R to equity contributions.
- f. This statement has specific impairment and nonadmittance requirements.
- g. For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).
- h. Disclosures should be followed as indicated in the disclosures section in this statement.
- i. The examples detailed in Exhibit A were modified to better illustrate the statutory accounting method for tax credit investments.

Effective Date and Transition

37. This statement is effective for reporting periods beginning on or after January 1, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with *SSAP No. 3—Accounting Changes and Corrections of Errors*. The guidance previously in paragraph 3 of this statement superseded paragraph 1 of SSAP No. 48. In 2011, this guidance was moved to SSAP No. 48 and deleted from this statement. The original guidance

included in this standard is retained for historical purposes in Issue Paper No. 125. The guidance from ASU 2014-01 is effective for reporting periods beginning on or after January 1, 2015, with early adoption permitted.

38. In XXX 2024, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective January 1, 2025, expanded the scope of SSAP No. 93 to include all federal and state tax credit investment structures and provide new guidance on the accounting, recognition, and reporting of tax credit investment structures. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credit investment structures to reflect the guidance in the conceptual revisions. Additionally, all tax credit investment structures which fall within the scope of this statement not currently reported on Schedule BA are to be transferred to Schedule BA as of the effective date.

Glossary

39. The following definitions are provided for the purposes of this statement.

- a. Unallocated tax credits – The portion of tax credits expected to be earned and allocated to the reporting entity through the tax credit investment structure.
- b. Transferable/Certificated – The tax credits are certified for sale (certificated tax credits) or saleable through the execution of a state or federal transfer form (transferable tax credits).
- c. More Likely Than Not – Refers to a likelihood of more than 50%.

REFERENCES

Relevant Issue Papers

- Issue Paper No. 125—Accounting for Low-Income Housing Tax Credit Property Investments
- Issue Paper No. XX—XXX

EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD

Example 1: Qualifying Tax Credit Investment Structure

On January 1, 20X1, ABC Insurance Company purchases a 5% equity stake in a tax credit investment structure for \$100,000. The allocated tax credits are transferable, and ABC anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a \$100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership finances the project cost of \$4,000,000 with 50% equity and 50% debt.
5. The annual tax credit allocation (equal to 4% of the project's original cost) will be received for a period of 10 years.
6. The investor's tax rate is 40%.
7. For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.
8. The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the \$100,000 investment.
9. It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.
10. The investor expects that the estimated residual value of the investment will be zero.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

- (1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).
- (2) Initial investment of \$100,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of \$120,000).
- (3) Annual 4% tax credit on \$200,000 tax basis of the underlying assets.
- (4) Depreciation (on \$200,000 tax basis of the underlying assets) using the straight-line method over 27.5 years up to the amount of the initial investment of \$100,000.
- (5) Column (4) x 40% tax rate.
- (6) Column (3) + Column (5).

Initial Year			
	Tax credit investment	100,000	
	Cash		100,000
	<i>To record the purchase of tax credit investment</i>		
Years 1-10			
	Amortization expense	9,091	
	Tax credit investment		9,091
	Federal tax credits	8,000	
	Income tax expense		8,000
	<i>To record annual receipt of allocated tax credits and proportional amortization of investment.</i>		

	Income taxes payable	8,000	
	Federal tax credits		8,000
	<i>To record annual utilization of allocated tax credits.</i>		
<hr/>			
Year 11-13			
	Amortization expense	2,424	
	Tax credit investment		2,424
	<i>To record annual proportional amortization of tax credit investment.</i>		
<hr/>			
Year 14			
	Amortization expense	1,818	
	Tax credit investment		1,818
	<i>To record annual proportional amortization of tax credit investment.</i>		

Example 2: Qualifying Tax Credit Investment Structure with Non-Income Tax Related Benefits

On January 1, 20X1, T&A Insurance Company purchased a 5% equity stake in a tax credit investment structure for \$100,000. The allocated tax credits are non-transferable, and T&A anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a \$100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership will receive production tax credits based on the energy the project produces. The credits will be allocated over a four-year period.
5. The tax equity investor will receive cash proceeds based on 2% of the project's cash generated during the life of the investment.
6. The investor's tax rate is 40%.
7. All requirements are met to retain allocable income tax credits such that there will be no recapture of income tax credits.
8. All of the conditions are met to require use of the proportional amortization method.
9. After 10 years, the tax equity investor has a right to require that the project sponsor purchase the tax equity investor's equity interest for a nominal amount. It is assumed that the Put option will be exercised and has a contractually agreed upon residual value of \$1,000.
10. In Years 1-3 the investor is able to utilize all allocated tax credits in the same period they were received. In Year 4, the investor is only able to utilize half of that year's allocated tax credit and defers the remainder for utilization in Year 5.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)	Non-Tax Related Cash Returns (7)
	100,000						
1	79,605	20,395	20,000	8,300	3,320	23,320	58
2	59,210	20,395	20,000	8,300	3,320	23,320	58
3	38,815	20,395	20,000	8,300	3,320	23,320	58
4	18,420	20,395	20,000	8,300	3,320	23,320	58
5	15,516	2,904		8,300	3,320	3,320	58
6	12,612	2,904		8,300	3,320	3,320	58
7	9,708	2,904		8,300	3,320	3,320	58
8	6,804	2,904		8,300	3,320	3,320	58
9	3,900	2,904		8,300	3,320	3,320	58
10	1,000	2,900		8,300	3,320	3,320	58
Total	1,000	99,000	80,000	83,000	33,200	113,200	580

- (1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).
- (2) Initial investment, less residual value of \$1,000, of \$99,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of \$113,200).
- (3) These tax credits have been generated through the production of electricity, which generates production tax credits. The tax equity investor is not receiving renewable energy credits or carbon offsets.
- (4) Depreciation /other tax losses passed on to the investor.
- (5) Column (4) x 40% tax rate.
- (6) Column (3) + Column (5).
- (7) Non-income-tax-related benefits recognized in current-period pre-tax earnings when allocated. This represents the cash proceeds allocated by the tax equity investor based on the cash generated from the project

Initial Year			
	Tax credit investment	100,000	
	Cash		100,000
<i>To record the purchase of tax credit investment</i>			
Years 1-3			
	Amortization expense	20,395	
	Tax credit investment		20,395
	Federal tax credits	20,000	
	Income tax expense		20,000
	Cash		58
	Investment Income		58

To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.

Income taxes payable	20,000	
Federal tax credits		20,000

To record annual utilization of allocated tax credits.

Year 4

Amortization expense	20,395	
Tax credit investment		20,395
Federal tax credits	20,000	
Income tax expense		20,000
Cash	58	
Investment Income		58

To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.

Income taxes payable	10,000	
Federal tax credits		10,000
Income tax expense	10,000	
Deferred tax expense		10,000

To record the portion of allocated tax credits utilized in the current year and defer the remainder. (Federal tax credit account should be mapped to the DTA reporting line as any balance remaining at year-end would be a DTA)

Year 5

Amortization expense	2,904	
Tax credit investment		2,904
Cash	58	
Investment Income		58

To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.

Income taxes payable	10,000	
Federal tax credits		10,000
Deferred tax expense	10,000	
Income tax expense		10,000

To record utilization of deferred tax credit.

Years 6-9

Amortization expense	2,904	
Tax credit investment		2,904
Cash	58	
Investment Income		58

To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.

Year 10

Amortization expense	2,900	
Tax credit investment		2,900
Cash	58	
Investment Income		58
<i>To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.</i>		
Cash	1,000	
Tax credit investment		1,000
<i>To record sale of interest in tax credit investment at stated residual value.</i>		

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Maintenance/Active Form A's/2022/22-14a - SSAP No. 93R - Investments .docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Maintenance/Active%20Form%20A's/2022/22-14a%20-%20SSAP%20No.%2093R%20-%20Investments.docx)

Spring National Meeting Exposure Draft: Revisions to the exposure draft of SSAP No. 94R made after the exposure on January 31, 2024, have been shown as tracked changes highlighted in grey.

Statements of Statutory Accounting Principles No. 94 - Revised

State and Federal Tax Credits

STATUS

Type of Issue	Common Area
Issued	June 12, 2006; Substantively revised December 7, 2011 Conceptually revised XXXX .
Effective Date	December 31, 2006; Substantive revisions detailed in Issue Paper No. 145 effective December 31, 2011; New SAP concept revisions detailed in Issue Paper No. XXX effective XXX .
Affects	No other pronouncements
Affected by	No other pronouncements
Interpreted by	No other pronouncements
Relevant Appendix A Guidance	None

STATUS	1
SCOPE OF STATEMENT	2
SUMMARY CONCLUSION	2
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SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for state and federal tax credits that are purchased¹ by the reporting entity. Tax credits allocated from investments NOT within the scope of *SSAP 93R—Investments in Tax Credit Structures* should refer to this statement for tax credit accounting guidance. Tax credits which have been awarded² to the reporting entity are not within the scope of this statement and should refer to *SSAP No. 101—Income Taxes*.
2. Tax credits allocated from, and investments in, tax credit structures, as discussed in SSAP No. 93R which involve investments in projects or programs that generate general business federal tax credits or state tax credits, are not within the scope of this statement.
3. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors, in order to make venture capital investments in “qualified” businesses, are not within the scope of this statement. Although associated with tax credits, the insurance company is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the investors will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

4. Both state and federal governments have enacted laws that create programs by which tax credits are granted to entities under certain specified conditions. The terms of these tax credits vary based on the issuing jurisdiction and from program to program.
5. For the purposes of this statement, “tax credits” must be issued by either a federal or state governmental entity and must be refundable³ or can be applied against income tax or premium tax in accordance with permitted IRS or state tax provisions. Tax credits which may be sold or otherwise transferred to another entity are referred to as “transferable tax credits” whereas all other tax credits are referred to as “non-transferable.”
6. When a reporting entity purchases a transferable or certificated tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e., limited partnership). Direct payment elections are non-revocable and supersede the transferability of tax credits, as such, once the election has been made the tax credit would be considered a non-transferable tax credit.

¹ The process to purchase a tax credit typically involves the acquisition of a tax credit certificate (certificated tax credits) or the execution of a state or federal transfer form (transferable tax credits). Tax credits which have been received through other means are indicative of tax credits allocated from an investment (For example, if the tax credits are received through a schedule K-1) and may be within scope of SSAP No. 93.

² For the purposes of this statement, awarded tax credits are tax credits issued to the reporting entity which were neither purchased nor allocated from an investment structure. A common example of an awarded tax credit are Job Creation tax credits which are a type of performance-based tax credit program.

³ Direct payment tax credits are synonymous with refundable tax credits, as such the terms are used interchangeably within this statement.

State and Federal Tax Credits

SSAP No. 94R

Accounting

7. All tax credits within the scope of the statement must be recognized in the period they are allocated to or purchased by the reporting entity for tax purposes and must be recorded at face value upon receipt. Tax credits acquired at a premium or discount to their face value must record the gain/loss as follows:
 - a. Tax credits acquired at a discount must defer the gain as a miscellaneous liability upon receipt of the tax credit.
 - b. Tax credits acquired at a premium must realize the loss within the income statement upon receipt of the tax credit.
8. Deferred gains on tax credits are deferred until the value of the tax credits utilized exceeds the initial acquisition cost of the tax credits, or until the tax credits are transferred to other entities or the direct payment election is utilized and the payment(s) or refund exceed the initial acquisition cost.
9. Tax credits shall be recognized in the period that they are purchased or allocated to the reporting entity for tax purposes:
 - a. Federal tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101—Income Taxes*. Federal tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.
 - b. State tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested-assets (not to be reported net).
10. Use of carried forward tax credits in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.
11. Gains and losses on tax credits are reflected in other income when realized.
12. A tax credit asset is considered purchased or allocated once the tax credit is received and available for use. If the reporting entity determines a commitment to purchase tax credits has met the definition of a liability, then the asset would be reported in other-than-invested assets as tax credits receivable.

Admittance

13. Tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.

Impairment

14. An impairment shall be considered to have occurred if it is probable that the reporting entity will be unable to recover the book/adjusted carrying value of the tax credits. Tax credits should be evaluated for impairment at each reporting date.

15. When there is a decline in the realizability of a tax credit owned by the reporting entity that is other-than-temporary^(INT 06-07), the asset shall be written down to the expected realizable amount and the amount of the write down shall be accounted for as a realized loss. The expected realizable value is the new cost basis.

16. The new cost basis shall not be changed for subsequent recoveries in realizability.

Disclosures

17. The following disclosures shall be made in the financial statements for the reporting period(s) presented. For purposes of this disclosure, total unused tax credits represent the entire amount of tax credits available:

- a. Carrying value of tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related tax liabilities by jurisdiction and in total.
- b. Total unused tax credits by jurisdiction, disaggregated by transferable/certificated and non-transferable.
- c. Method of estimating utilization of remaining tax credits or other projected recovery of the current carrying value.
- d. Impairment amount recognized in the reporting period(s), if any.
- e. Identify tax credits by transferable/certificated and non-transferable classifications and identify the admitted and nonadmitted portions of each classification.

18. Any commitment or contingent commitment to purchase tax credits shall be disclosed.

Effective Date and Transition

19. This statement is effective for reporting periods ending on or after December 31, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3. Substantive revisions to 1) revising the title; 2) incorporating the criteria for non-transferable state tax credits as described in paragraphs 7 and 8; 3) adding a disclosure; and 4) updating terminology throughout the document as appropriate, are effective for reporting periods ending on or after December 31, 2011.

20. In XXX, 20XX, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective January 1, 2025, with early adoption permitted, expanded the scope of SSAP No. 94R to include all purchased, and certain allocated, state and federal income or premium tax credits and provide new guidance on the accounting, recognition, and reporting for state and federal tax credits within the scope of this statement. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credits within the scope of this statement to reflect the guidance in the conceptual revisions. For unutilized tax credits which were carried forward from prior to the effective date:

State and Federal Tax Credits

SSAP No. 94R

- a. Federal tax credits in other-than-invested assets are to be transferred and reported as a DTA in accordance with SSAP No. 101.
- b. Tax credits previously recorded at acquisition cost should be adjusted to reflect the face value of the acquired tax credits with the corresponding loss immediately recognized or the gain deferred.

REFERENCES

Relevant Issue Papers

- Issue Paper No. 126—Accounting for Transferable State Tax Credits
- Issue Paper No. 145—Accounting for Transferable and Non-Transferable State Tax Credits
- Issue Paper No. XXX—XXX

EXHIBIT A – ACCOUNTING FOR TRANSFERABLE TAX CREDITS

On 1/1/X1 SAM Insurance Company purchased transferable state tax credits for a cost of \$100,000. The transferable state tax credits are redeemable for \$160,000 and expire at the end of 12/31/X4. SAM initially expects to utilize the tax credits before expiration in their state of domicile in the amount of \$40,000 per year. In year X4, SAM sells the remaining \$30,000 in transferable state tax credits for \$20,000.

1/1/x1	Transferable state tax credits	160,000	
	Deferred gains on acquired tax credits		60,000
	Cash		100,000
	<i>To record the purchase of the tax credits</i>		
6/30/x1	Premium tax expense	40,000	
	Premium taxes payable to domiciliary state		40,000
	<i>To record premium tax expense and accrue the liability in Year 1.</i>		
10/1/x1	Premium tax payable	40,000	
	Transferable state tax credits		40,000
	<i>To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.</i>		
6/30/x2	Premium tax expense	60,000	
	Premium taxes payable to domiciliary state		60,000
	<i>To record premium tax expense and accrue the liability in Year 2.</i>		
9/30/x2	Premium tax payable	60,000	
	Transferable state tax credits		60,000
	<i>To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.</i>		
6/30/x3	Premium tax expense	30,000	
	Premium taxes payable to domiciliary state		30,000
	<i>To record premium tax expense and accrue the liability in Year 3.</i>		
9/30/x3	Premium tax payable	30,000	
	Transferable state tax credits		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		30,000
	<i>To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.</i>		
6/30/x4	Cash	20,000	
	Other income	10,000	
	Transferable state tax credits		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		30,000
	<i>To record the sale of the remaining tax credits.</i>		

State and Federal Tax Credits

SSAP No. 94R

EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE TAX CREDITS

On 7/1/X1 LJW Insurance Company purchased non-transferable federal tax credits for a cost of \$100,000. The federal tax credits are redeemable for \$110,000 and expire on, April 15, 20x2. LJW expects to utilize the tax credits before expiration in the amount of \$110,000. Tax credits are utilized pro-rata, approximately \$36,666 every quarter, from acquisition date to expiration date. The illustration below assumes that LJW Insurance Company's quarterly income tax liability equals the amount of credits that were purchased.

7/1/x1	Federal tax credits	110,000	
	Deferred gains on acquired tax credits		10,000
	Cash		100,000
	<i>To record the purchase of the tax credits</i>		
9/30/x1	Income tax expense	36,666	
	Income taxes payable		36,666
	<i>To record quarterly income tax liability.</i>		
10/1/x1	Income taxes payable	36,666	
	Federal tax credits		36,666
	<i>To record the use of tax credits in the quarter.</i>		
12/31/x1	Income tax expense	36,666	
	Income taxes payable		36,666
	<i>To record quarterly income tax liability.</i>		
1/1/x2	Income taxes payable	36,666	
	Federal tax credits		36,666
	<i>To record the use of tax credits in the quarter.</i>		
3/31/x2	Income tax expense	36,668	
	Income taxes payable		36,668
	<i>To record quarterly income tax liability.</i>		
4/1/x2	Income taxes payable	36,668	
	Deferred gains on acquired tax credits	10,000	
	Other Income		10,000
	Federal tax credits		36,668
	<i>To record the use of tax credits in the quarter.</i>		

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Maintenance/Active Form A's/2022/22-14b - SSAP No. 94R - State and Federal Tax Credits.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Maintenance/Active%20Form%20A's/2022/22-14b-SSAP%20No.%2094R-State%20and%20Federal%20Tax%20Credits.docx)

Other SSAPs

Note: The following revisions are shown as tracked changes and intended to update related SSAPs for the proposed changes to SSAP Nos. 93 and 94R. The changes shown to SSAP No. 48R have **not** been amended to reflect the proposed formatting changes in agenda item #2024-xx: Consistency Revisions for Residuals.

Spring National Meeting Exposure Draft: Revisions to the exposure draft below made **after** the exposure on January 31, 2024, have been shown as tracked changes highlighted in grey.

Proposed revisions to **SSAP No. 34—Investment Income Due and Accrued**

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for investment income due and accrued. This statement does not address the accounting for tax credits allocated or purchased, which are discussed in SSAP No. 93R—Investments in Tax Credit Structures and SSAP No. 94R—State and Federal Tax Credits.

Proposed revisions to **SSAP No. 48R—Joint Ventures, Partnerships and Limited Liability Companies**

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for investments in any joint ventures, partnerships, and limited liability companies, including investments in certified capital companies (CAPCO) per *INT 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)*, whether or not it is considered to be controlled by or affiliated with the reporting entity. Single real estate property investments that are wholly-owned by an LLC that is directly and wholly-owned by the reporting entity, and that meet the criteria established in *SSAP No. 40R—Real Estate Investments*, are excluded from this statement. This statement does not address the accounting for investments in joint ventures, partnerships, and and-limited liability companies that invest in tax credit programs that and are in the scope of hold an equity interest in either a tax syndication structure or tax equity fund invest in Low-Income Housing Tax Credit Properties as discussed in SSAP No. 93R—Low Income Housing Tax Credit Property Investments~~Investments in Tax Credit Structures.~~

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: *ASU 2023-03—Amendments to SEC Paragraphs*

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue:

In July of 2023 FASB issued *ASU 2023-03, Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 120, SEC Staff Announcement at the March 24, 2022, EITF Meeting, and Staff Accounting Bulletin Topic 6.B, Accounting Series Release 280—General Revision of Regulation S-X: Income or Loss Applicable to Common Stock*, which amends SEC paragraphs from the Accounting Standards Codification based on the issuance of SEC Staff Accounting Bulletin (SAB) 120, the March 24, 2022 EITF meeting SEC staff announcement, and SAB Topic 6.B “Accounting Series Release No. 280 — General Revision of Regulation S-X: Income or Loss Applicable to Common Stock. This ASU updates various aspects of SEC guidance on stock compensation and equity-based payments.

Existing Authoritative Literature:

Historically, SEC guidance from ASUs have been rejected as not applicable for statutory accounting in Appendix D. Regardless, all ASUs are reviewed for statutory accounting purposes to determine if the guidance should be considered for statutory accounting.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): None

Staff Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *Appendix D—Nonapplicable GAAP Pronouncements to reject ASU 2023-03, Amendments to SEC Paragraphs as not applicable to statutory accounting*. This item is proposed to be rejected as not applicable as the ASU is specific to amendment of SEC paragraphs, which are not applicable for statutory accounting purposes.

Staff Review Completed by: William Oden – October 2023

Status:

On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to *Appendix D—Nonapplicable GAAP Pronouncements to reject ASU 2023-03—Amendments to SEC Paragraphs as not applicable for statutory accounting*.

<https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24SpringNationalMeeting/Hearing/09-23-25-ASU2023-03-SECUpdates.docx>

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: *ASU 2023-04—Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121*

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue:

In August of 2023 FASB issued *ASU 2023-04, Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121*, which amends SEC paragraphs from the Accounting Standards Codification for the issuance of SEC Staff Accounting Bulletin (SAB) 121 which provides guidance on accounting for obligations to safeguard Crypto-Assets an entity holds for its platform users.

Existing Authoritative Literature:

Historically, SEC guidance from ASUs have been rejected as not applicable for statutory accounting in Appendix D. Regardless, all ASUs are reviewed for statutory accounting purposes to determine if the guidance should be considered for statutory accounting.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

In May 2021, the Working Group issued INT 21-01: Accounting for Cryptocurrencies, which provided guidance for the statutory accounting treatment of cryptocurrencies. INT 21-01 establishes that directly held cryptocurrencies have not been identified in the Accounting Practices and Procedures Manual (AP&P Manual) as an admitted asset, and do not meet the definition of any admitted asset that is defined in the AP&P Manual. Accordingly, by default they are a nonadmitted asset per *SSAP No. 4—Assets and Nonadmitted Assets*, paragraph 3, as they are not specifically identified in the Accounting Practices and Procedures Manual as an admitted asset.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): None

Staff Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *Appendix D—Nonapplicable GAAP Pronouncements to reject ASU 2023-04, Amendments to SEC Paragraphs as not applicable to statutory accounting*. This item is proposed to be rejected as not applicable as the ASU is specific to amendment of SEC paragraphs, which are generally not applicable for statutory accounting purposes.

Staff Review Completed by: Jake Stultz – October 2023

Status:

On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to *Appendix D—Nonapplicable GAAP Pronouncements to reject ASU 2023-04—Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121* as not applicable for statutory accounting.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/03-16-24 Spring National Meeting/Hearing/10 - 23-27 - ASU 2023-04 - SEC Updates - Crypto.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National%20Meetings/A.%20National%20Meeting%20Materials/2024/03-16-24%20Spring%20National%20Meeting/Hearing/10-23-27-ASU%202023-04-SEC%20Updates-Crypto.docx)

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: IMR / AVR Preferred Stock

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue: This agenda item has been developed to update guidance for the Interest Maintenance Reserve (IMR) and the Asset Valuation Reserve (AVR) in the Annual Statement (A/S) Instructions for perpetual preferred stock, which includes SVO-Identified Preferred Stock ETFs. The existing IMR/AVR guidance is based on measurement of preferred stock based on NAIC designation. However, statutory accounting revisions effective in 2021 revised the measurement method for perpetual preferred stock to always reflect fair value, not to exceed any currently effective call price, regardless of NAIC designation. Furthermore, with dedicated reporting lines established to separate redeemable and perpetual preferred stock, the reporting of NAIC designations was revised and no longer references an “RP” or “P.” These revisions were incorporated as perpetual preferred stock is more akin to an equity instrument, as it is not required to be redeemed by the issuing entity or at the option of the investor. At the time of this measurement method change, corresponding revisions to the IMR/AVR instructions were not reflected. As such, the existing IMR/AVR guidance directs realized gains/loss treatment for all preferred stock based on the NAIC designation during the holding period and refers to the prior designation classifications.

This agenda item proposes to clarify that realized gains and losses on perpetual preferred stock shall not be added to the IMR, regardless of NAIC designation, and shall follow the same concepts that exist for common stock in reporting realized gains/losses to the AVR. This agenda item does not propose to change the concepts for redeemable preferred stock, which is more akin to a debt instrument, but proposes to clarify the guidance so application based on the type of structure is clear. Separate reporting of perpetual preferred stock and redeemable preferred stock is already included on Schedule D-2-1: Preferred Stock.

For the revisions proposed in this agenda item, the guidance for redeemable preferred stock will not be revised and will continue to classify realized gains/losses between the IMR and AVR based on NAIC designation. This guidance indicates that if the designation was a 4-6 at any time during the holding period, the realized gain or loss would go to AVR as non-interest related gains or losses. This agenda item does not intend to confirm that the allocation approach for redeemable preferred stock is appropriate and is strictly focused on ensuring that the current annual statement instructions for IMR/AVR corresponds with the current accounting and reporting guidance for perpetual preferred stocks. As detailed in the recommendation, discussion on whether use of NAIC designation for redeemable preferred stock is appropriate is proposed to occur as part of the long-term IMR project.

Existing Authoritative Literature:

- **SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve**

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for an asset valuation reserve (AVR) and an interest maintenance reserve (IMR) for life and accident and health insurance companies, excluding separate accounts. Separate account AVR/IMR reporting is addressed in *SSAP No. 56—Separate Accounts*.

SUMMARY CONCLUSION

2. Life and accident and health insurance companies shall recognize liabilities for an AVR and an IMR. The AVR is intended to establish a reserve to offset potential credit-related investment losses on all

invested asset categories excluding cash, policy loans, premium notes, collateral notes and income receivable. The IMR defers recognition of the realized capital gains and losses resulting from changes in the general level of interest rates. These gains and losses shall be amortized into investment income over the expected remaining life of the investments sold. The IMR also applies to certain liability gains/losses related to changes in interest rates. These gains and losses shall be amortized into investment income over the expected remaining life of the liability released.

3. The IMR and AVR shall be calculated and reported as determined per guidance in the SSAP for the specific type of investment (e.g., SSAP No. 43R for loan-backed and structured securities), or if not specifically stated in the respective SSAP, in accordance with the NAIC *Annual Statement Instructions* for Life and Accident and Health Insurance Companies.

Effective Date and Transition

4. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*.

- **A/S Instructions – Life, Accident and Health / Fraternal Companies**

(This reflects 2023 guidance. Agenda item 2023-15 proposes revisions to address specific allocations to the IMR that may not reflect interest-related losses.)

Interest Maintenance Reserve (IMR)

Line 2 – Current Year's Realized Pre-tax Capital Gains (Losses) of \$_____ Transferred into the Reserve Net of Taxes of \$_____

Include interest-rate-related realized capital gains (losses), net of capital gains tax thereon. All realized capital gains (losses) transferred to the IMR are net of capital gains taxes thereon. Exclude non-interest-related (default) realized capital gains and (losses), realized capital gains (losses) on equity investments, and unrealized capital gains (losses).

All realized capital gains (losses), due to interest rate changes on fixed income investments, net of related capital gains tax, should be captured in the IMR and amortized into income (Column 2, Lines 1 through 31) according to Table 1 or the seriatim method. Realized capital gains (losses) must be classified as either interest (IMR) or non-interest (AVR) related, not a combination except as specified in SSAP No. 43R—*Loan-Backed and Structured Securities*. Purchase lots with the same CUSIP are treated as individual assets for IMR and Asset Valuation Reserve (AVR) purposes.

Exclude those capital gains and (losses) that, in accordance with contract terms have been used to directly increase or (decrease) contract benefit payments or reserves during the reporting period. The purpose of this exclusion is to avoid the duplicate utilization of such gains and (losses).

Capital gains tax should be determined using the method developed by the company to allocate taxes used for statutory financial reporting purposes. By capturing the realized capital gains (losses) net of tax, the capital gains tax associated with those capital gains (losses) due to an interest rate change is charged or credited to the IMR and amortized in proportion to the before-tax amortization.

Include realized capital gains (losses) on:

Debt securities (excluding loan-backed and structured securities) and preferred stocks whose National Association of Insurance Commissioners (NAIC)/Securities Valuation Office (SVO) designation at the end of the holding period is **NOT** different from its NAIC designation at the beginning of the holding period by more than one NAIC designation. Exclude any such gains (losses) exempt from the IMR.

Exchange Traded Funds (ETFs) as listed on the SVO Identified Bond ETF List (thereafter subject to bond IMR guidelines) and the SVO Identified Preferred Stock ETF List (thereafter subject to preferred stock IMR guidelines). Include any capital gains (losses) realized by the Company, whether from sale of the ETF or capital gains distributions by the ETF. If the ETF is removed from either SVO ETF list, the ETF is reported and treated as common stock, with any capital gains/(losses) excluded from the IMR.

SVO Identified Funds designated for systematic value

Called bonds, tendered bonds, and sinking fund payments.

Mortgage loans where:

- Interest is **NOT** more than 90 days past due, or
- The loan is **NOT** in process of foreclosure, or
- The loan is **NOT** in course of voluntary conveyance, or
- The terms of the loan have **NOT** been restructured during the prior two years.

Additional Provisions for Including/Excluding Gains (Losses) from IMR:

Mortgage loan prepayment penalties are not included in IMR. Treat them as regular investment income.

Interest-related gains (losses) realized on directly held capital and surplus notes reported on Schedule BA should be transferred to the IMR in the same manner as similar gains and (losses) on fixed income assets held on Schedule D. A capital gain (loss) on such a note is classified as an interest rate gain if the note is eligible for amortized-value accounting at both the time of acquisition and the time of disposition.

Determination of IMR gain (loss) on multiple lots of the same securities should follow the underlying accounting treatment in determining the gain (loss). Thus, the designation, on a purchase lot basis, should be compared to the designation at the end of the holding period to determine IMR or AVR gain or (loss).

Realized capital gains (losses) on any debt security (excluding loan-backed and structured securities) that has had an NAIC/SVO designation of 6 at any time during the holding period should be excluded from the IMR and included as a non-interest-related gain (loss) in the AVR.

Realized capital gains (losses) on any preferred stock that had an NAIC/SVO designation of RP4, RP5 or RP6 or P4, P5 or P6 at any time during the holding period should be reported as non-interest-related gains (losses) in the AVR.

The holding period for debt securities (excluding loan-backed and structured securities) and preferred stocks is defined as the period from the date of purchase to the date of sale. For the end of period classification, the most recent available designation should be used. For bonds acquired before Jan. 1, 1991, the holding period is presumed to have begun on Dec. 31, 1990. For preferred stocks acquired before Jan. 1, 1993, the holding period is presumed to have begun on Dec. 31, 1992. For SVO Identified ETFs, the holding period is defined as one calendar year to expected maturity. For SVO Identified Funds designated for systematic value, the holding period is the weighted-average life of the underlying bonds.

In accordance with *SSAP No. 26R—Bonds*, securities with other-than-temporary impairment losses shall be recorded entirely to either AVR or IMR and not bifurcated between interest and non-interest components.

Asset Valuation Reserve (AVR)

Line 2 – Realized Capital Gains (Losses) Net of Taxes – General Account

Report all realized non-interest-related (default) and equity capital gains (losses), net of capital gains tax, applicable to the assets in each component and sub-component. All realized capital gains (losses) transferred to the AVR are net of capital gains taxes thereon. Exclude all interest rate-related capital gains (losses) from the AVR.

Capital gains tax should be determined using the method developed by the company to allocate taxes used for statutory financial reporting purposes.

Report all realized capital gains (losses), net of capital gains tax, on each debt security (excluding loan-backed and structured securities) whose NAIC/SVO designation at the end of the holding period is different from its NAIC/SVO designation at the beginning of the holding period by more than one NAIC/SVO designation. The holding period is defined as the period from the date of purchase to the date of sale. For end of period classification, the most recent available designation should be used. For bonds acquired before Jan. 1, 1991, the holding period is presumed to have begun on Dec. 31, 1990.

Determination of AVR gain (loss) on multiple lots of the same fixed income securities should follow the underlying accounting treatment in determining gain (loss). Thus, the designation, on a purchase lot basis, should be compared to the designation at the end of the holding period to determine IMR or AVR gain or (loss).

In accordance with *SSAP No. 26R—Bonds*, securities with other-than-temporary impairment losses shall be recorded entirely to either AVR or IMR and not bifurcated between interest and non-interest components.

In accordance with *SSAP No. 43R—Loan-Backed and Structured Securities*, for loan-backed and structured securities only:

- Other-Than-Temporary Impairment – Non-interest-related other-than-temporary impairment losses shall be recorded through the AVR. If the reporting entity wrote the security down to fair value due to the intent to sell or does not have the intent and ability to retain the investment for a period of time sufficient to recover the amortized cost basis, the non-interest-related portion of the other-than-temporary impairment losses shall be recorded through the AVR; the interest related other-than-temporary impairment losses shall be recorded through the IMR. The analysis for bifurcating impairment losses between AVR and IMR shall be completed as of the date when the other-than-temporary impairment is determined.
- Security Sold at a Loss Without Prior OTTI – An entity shall bifurcate the loss into AVR and IMR portions depending on interest- and non-interest-related declines in accordance with the analysis performed as of the date of sale. As such, an entity shall report the loss in separate AVR and IMR components as appropriate.
- Security Sold at a Loss with Prior OTTI – An entity shall bifurcate the current realized loss into AVR and IMR portions depending on interest- and non-interest-related declines in accordance with the analysis performed as of the date of sale. An entity shall not adjust previous allocations to AVR and IMR that resulted from previous recognition of other-than-temporary impairments.
- Security Sold at a Gain with Prior OTTI – An entity shall bifurcate the gain into AVR and IMR portions depending on interest and non-interest factors in accordance with the analysis performed as of the date of sale. The bifurcation between AVR and IMR that

occurs as of the date of sale may be different from the AVR and IMR allocation that occurred at the time of previous other-than-temporary impairments. An entity shall not adjust previous allocations to AVR and IMR that resulted from previous recognition of other-than-temporary impairments.

- Security Sold at a Gain Without Prior OTTI – An entity shall bifurcate the gain into AVR and IMR portions depending on interest and non-interest factors in accordance with the analysis performed as of the date of sale.

In addition, all gains (losses), net of capital gains tax, on mortgage loans where:

- Interest is more than 90 days past due, or
- The loan is in the process of foreclosure, or
- The loan is in course of voluntary conveyance, or
- The terms of the loan have been restructured during the prior two years

Would be classified as non-interest-related gains (losses).

The gain (loss), net of capital gains tax, on any debt security (excluding loan-backed and structured securities) that has had an NAIC/SVO designation of “6” at any time during the holding period should be reported as a credit related gain (loss).

All capital gains (losses), net of capital gains tax, from preferred stock that had an NAIC/SVO designation of RP4, RP5 or RP6 or P4, P5 or P6 at any time during the holding period should be reported as on-interest-related gains (losses) in the AVR.

However, for a convertible bond or preferred stock purchased while its conversion value exceeds its par value, any gain (loss) realized from its sale before conversion must be included in the Equity Component of the AVR. Conversion Value is defined to mean the number of shares available currently or at next conversion date multiplied by the stock’s current market price.

Report all realized equity capital gains (losses), net of capital gains tax, in the appropriate sub-components.

The following guidance pertains to instruments in Scope of *SSAP No. 86—Derivatives*:

- For derivative instruments used in hedging transactions, the determination of whether the capital gains (losses) are allocable to the IMR or the AVR is based on how the underlying asset is treated. Realized gains (losses), net of capital gains tax, on portfolio or general hedging instruments should be included with the hedged asset. Gains (losses), net of capital gains tax, on hedges used, as specific hedges should be included only if the specific hedged asset is sold or disposed of.
- For income generation derivative transactions, the determination of whether the capital gains (losses) are allocable to the IMR or the AVR is based on how the underlying interest (for a put) or covering asset (for a call, cap or floor) is treated. Realized gains (losses), net of capital gains tax should be included in the same sub-component where the realized gains (losses) of the underlying interest (for a put) or covering asset (for a call, cap or floor) is reported. Refer to *SSAP No. 86—Derivatives* for accounting guidance.

Realized gains (losses), net of capital gains tax, resulting from the sale of U.S. government securities and the direct or guaranteed securities of agencies which are backed by the full faith and credit of the U.S. government are exempt from the AVR. This category is described in the Investment Schedules General Instructions.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- Agenda item 2019-04: SSAP No. 32 – Investment Classification Project, resulted with revisions to update the preferred stock accounting and reporting guidance. These revisions resulted with all perpetual preferred stock being reported at fair value, not to exceed any currently effective call price, with unrealized gains and losses accounted for in accordance with SSAP No. 7—*Asset Valuation Reserve and Interest Maintenance Reserve*.
- Agenda Item 2023-14: SSAP No. 7—*Asset Valuation Reserve and Interest Maintenance Reserve* establishes a broad project to capture accounting guidance for AVR and IMR in SSAP No. 7.
- Agenda Item 2023-15: IMR/AVR Specific Allocations considers revisions to the A/S instructions to address guidance that prescribes specific allocation to the IMR. These revisions were exposed in August 2023.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): N/A

Recommendation:

NAIC staff recommend that the Working Group include this item on their maintenance agenda as a SAP clarification and expose this agenda item with proposed revisions to the A/S instructions to remove the guidance that directs all preferred stock to be allocated between IMR/AVR based on NAIC designation. This agenda item proposes new guidance that corresponds to the accounting and reporting differences for redeemable and perpetual preferred stock, with all perpetual preferred stock being treated as an equity instrument similar to common stock. With this approach, all unrealized gains or losses on perpetual preferred stock will reverse to realized gains or losses in the AVR formula. The revisions also clarify that SVO-Identified Preferred Stock ETFs shall be treated as perpetual preferred stock (equities) as that is consistent with the guidance in SSAP No. 32R—*Preferred Stock*.

(Note: This item is proposed as a SAP Clarification as the revisions to SSAP No. 32R to revise the measurement method for perpetual preferred stock was a new SAP Concept. The revisions proposed in this agenda item simply update the IMR/AVR A/S instructions to correspond to those adopted changes.)

As discussed in the introduction, this agenda item does not propose to alter the current process of using NAIC designations for redeemable preferred stock in determining whether realized gains or losses should be allocated to IMR or AVR. However, it should not be perceived that this agenda item confirms retention of this existing approach. Discussion on the approach to allocate gains/losses incurred from redeemable preferred stock is recommended for review as part of the long-term project on IMR/AVR. Any comments received on this dynamic will be addressed as part of that project. As detailed in the A/S instructions, for preferred stock, the determination for AVR is based on whether the preferred stock was an NAIC 4-6 at any time during the holding period and not based on a change in NAIC designation.

Staff Note: Shaded guidance reflects sections that have proposed revisions that were exposed in agenda item 2023-15: IMR/AVR Specific Allocations. These changes are accepted only for ease of readability and to prevent confusion on the proposed revisions related to this agenda item. Whether the revisions from agenda item 2023-15 are adopted will depend on the discussion and action by the Working Group. With the exception of the added 'redeemable' in the first shaded paragraph, all of the edits proposed in this agenda item are in separate paragraphs from agenda item 2023-15.

Interest Maintenance Reserve (IMR)

Line 2 – Current Year’s Realized Pre-tax Capital Gains (Losses) of \$ _____ Transferred into the Reserve Net of Taxes of \$ _____

Include interest-rate-related realized capital gains (losses), net of capital gains tax thereon. All realized capital gains (losses) transferred to the IMR are net of capital gains taxes thereon. Exclude non-interest-related (default) realized capital gains and (losses), realized capital gains (losses) on equity investments, and unrealized capital gains (losses).

All realized capital gains (losses), due to interest rate changes on fixed income investments, net of related capital gains tax, should be captured in the IMR and amortized into income (Column 2, Lines 1 through 31) according to Table 1 or the seriatim method. Realized capital gains (losses) must be classified as either interest (IMR) or non-interest (AVR) related, not a combination except as specified in *SSAP No. 43R—Loan-Backed and Structured Securities*. Purchase lots with the same CUSIP are treated as individual assets for IMR and Asset Valuation Reserve (AVR) purposes.

Exclude those capital gains and (losses) that, in accordance with contract terms have been used to directly increase or (decrease) contract benefit payments or reserves during the reporting period. The purpose of this exclusion is to avoid the duplicate utilization of such gains and (losses).

Capital gains tax should be determined using the method developed by the company to allocate taxes used for statutory financial reporting purposes. By capturing the realized capital gains (losses) net of tax, the capital gains tax associated with those capital gains (losses) due to an interest rate change is charged or credited to the IMR and amortized in proportion to the before-tax amortization.

Include realized capital gains (losses) on:

Debt securities (excluding loan-backed and structured securities) and redeemable preferred stocks where the realized capital gains (losses) more predominantly reflect interest-related changes. By default, debt instruments whose National Association of Insurance Commissioners (NAIC)/Securities Valuation Office (SVO) designation at the end of the holding period, or within a reasonable amount of time after the reporting entity has sold/disposed of the instrument, are different from its NAIC designation at the beginning of the holding period by more than one NAIC designation or NAIC designation category shall not be considered to reflect interest-related changes. Gains (losses) from those debt instruments shall NOT be reported in the IMR and shall be reported in the AVR

Exchange Traded Funds (ETFs) as listed on the SVO Identified Bond ETF List (thereafter subject to bond IMR guidelines) ~~and the SVO Identified Preferred Stock ETF List (thereafter subject to preferred stock IMR guidelines)~~. Include any capital gains (losses) realized by the Company, whether from sale of the ETF or capital gains distributions by the ETF. If the ETF is removed from either SVO ETF list, the ETF is reported and treated as common stock, with any capital gains/(losses) excluded from the IMR. (Investments on the SVO-Identified Preferred Stock List are captured as perpetual preferred stock and treated as equity investments, with gains and losses excluded from IMR.)

SVO Identified Funds designated for systematic value

Called bonds, tendered bonds, and sinking fund payments.

Mortgage loans where the realized gains (losses) more predominantly reflect interest-related changes. By default, mortgage loans that meet any of the following criteria shall not

be considered to reflect interest-related losses. Realized gains (losses) from mortgage loans with these characteristics shall be reported in the AVR:

- Any mortgage loan sold/disposed with an established valuation allowance under SSAP No. 37, or
- Interest is more than 90 days past due, or
- The loan is in process of foreclosure, or
- The loan is in course of voluntary conveyance, or
- The terms of the loan have been restructured during the prior two years.

Additional Provisions for Including/Excluding Gains (Losses) from IMR:

Mortgage loan prepayment penalties are not included in IMR. Treat them as regular investment income.

Interest-related gains (losses) realized on directly held capital and surplus notes reported on Schedule BA should be transferred to the IMR in the same manner as similar gains and (losses) on fixed income assets held on Schedule D. A capital gain (loss) on such a note is classified as an interest rate gain if the note is eligible for amortized-value accounting at both the time of acquisition and the time of disposition.

Determination of IMR gain (loss) on multiple lots of the same securities should follow the underlying accounting treatment in determining the gain (loss). Thus, the designation, on a purchase lot basis, should be compared to the designation at the end of the holding period to determine IMR or AVR gain or (loss).

Realized capital gains (losses) on any debt security (excluding loan-backed and structured securities) that has had an NAIC/SVO designation of 6 at any time during the holding period should be excluded from the IMR and included as a non-interest-related gain (loss) in the AVR.

Realized capital gains (losses) on any redeemable preferred stock that had an NAIC/SVO designation of ~~4-6 RP4, RP5 or RP6 or P4, P5 or P6~~ at any time during the holding period should be reported as non-interest-related gains (losses) in the AVR.

The holding period for debt securities (excluding loan-backed and structured securities) and redeemable preferred stocks is defined as the period from the date of purchase to the date of sale. For the end of period classification, the most recent available designation should be used. For bonds acquired before Jan. 1, 1991, the holding period is presumed to have begun on Dec. 31, 1990. For redeemable preferred stocks acquired before Jan. 1, 1993, the holding period is presumed to have begun on Dec. 31, 1992. For SVO Identified Bond ETFs, the holding period is defined as one calendar year to expected maturity. For SVO Identified Bond ETFs Funds designated for systematic value, the holding period is the weighted-average life of the underlying bonds.

In accordance with *SSAP No. 26R—Bonds*, securities with other-than-temporary impairment losses shall be recorded entirely to either AVR or IMR and not bifurcated between interest and non-interest components.

Asset Valuation Reserve (AVR)

Line 2 – Realized Capital Gains (Losses) Net of Taxes – General Account

Report all realized non-interest-related (default) and equity capital gains (losses) (which includes, but is not limited to, common stock, perpetual preferred stock and SVO-Identified Preferred Stock ETFs), net of capital gains tax, applicable to the assets in each component and sub-component. All realized capital gains (losses) transferred to the AVR are net of capital gains taxes thereon. Exclude all interest rate-related capital gains (losses) from the AVR.

Capital gains tax should be determined using the method developed by the company to allocate taxes used for statutory financial reporting purposes.

Report all realized capital gains (losses), net of capital gains tax, on each debt security (excluding loan-backed and structured securities) where the realized capital gains (losses) more predominantly reflect non-interest-related changes. By default, debt instruments whose NAIC/SVO designation at the end of the holding period, or within a reasonable amount of time after the reporting entity has sold/disposed of the instrument, is different from its NAIC/SVO designation at the beginning of the holding period by more than one NAIC designation or NAIC designation category shall be considered to reflect non-interest-related changes. Gains (losses) from those debt instruments shall be reported in the AVR.

Determination of AVR gain (loss) on multiple lots of the same fixed income securities should follow the underlying accounting treatment in determining gain (loss). Thus, the designation, on a purchase lot basis, should be compared to the designation at the end of the holding period to determine IMR or AVR gain or (loss).

In accordance with *SSAP No. 26R—Bonds*, securities with other-than-temporary impairment losses shall be recorded entirely to either AVR or IMR and not bifurcated between interest and non-interest components.

In accordance with *SSAP No. 43R—Loan-Backed and Structured Securities*, for loan-backed and structured securities only:

- **Other-Than-Temporary Impairment – Non-interest-related other-than-temporary impairment losses shall be recorded through the AVR.** If the reporting entity wrote the security down to fair value due to the intent to sell or does not have the intent and ability to retain the investment for a period of time sufficient to recover the amortized cost basis, the non-interest-related portion of the other-than-temporary impairment losses shall be recorded through the AVR; the interest related other-than-temporary impairment losses shall be recorded through the IMR. The analysis for bifurcating impairment losses between AVR and IMR shall be completed as of the date when the other-than-temporary impairment is determined.
- **Security Sold at a Loss Without Prior OTTI – An entity shall bifurcate the loss into AVR and IMR portions depending on interest- and non-interest-related declines in accordance with the analysis performed as of the date of sale.** As such, an entity shall report the loss in separate AVR and IMR components as appropriate.
- **Security Sold at a Loss with Prior OTTI – An entity shall bifurcate the current realized loss into AVR and IMR portions depending on interest- and non-interest-related declines in accordance with the analysis performed as of the date of sale.** An entity shall not adjust previous allocations to AVR and IMR that resulted from previous recognition of other-than-temporary impairments.
- **Security Sold at a Gain with Prior OTTI – An entity shall bifurcate the gain into AVR and IMR portions depending on interest and non-interest factors in accordance with the analysis performed as of the date of sale.** The bifurcation between AVR and IMR that occurs as of the date of sale may be different from the AVR and IMR allocation that occurred at the time of previous other-than-temporary impairments. An entity shall not

adjust previous allocations to AVR and IMR that resulted from previous recognition of other-than-temporary impairments.

- Security Sold at a Gain Without Prior OTTI – An entity shall bifurcate the gain into AVR and IMR portions depending on interest and non-interest factors in accordance with the analysis performed as of the date of sale.

In addition, all gains (losses), net of capital gains tax, on mortgage loans where the realized gains (losses) more predominantly reflect non-interest-related changes. By default, mortgage loans that meet any of the following criteria shall be considered to reflect non-interest-related changes and realized gains (losses) from mortgage loans with these characteristics shall be reported in the AVR:

- Any mortgage loan sold/disposed with an established valuation allowance under SSAP No. 37, or
- Interest is more than 90 days past due, or
- The loan is in the process of foreclosure, or
- The loan is in course of voluntary conveyance, or
- The terms of the loan have been restructured during the prior two years

The gain (loss), net of capital gains tax, on any debt security (excluding loan-backed and structured securities) that has had an NAIC/SVO designation of “6” at any time during the holding period should be reported as a credit related gain (loss).

All capital gains (losses), net of capital gains tax, from redeemable preferred stock that had an NAIC/SVO designation of 4-6 RP4, RP5 or RP6 or P4, P5 or P6 at any time during the holding period should be reported as non-interest-related gains (losses) in the AVR.

However, for a convertible bond or redeemable preferred stock purchased while its conversion value exceeds its par value, any gain (loss) realized from its sale before conversion must be included in the Equity Component of the AVR. Conversion Value is defined to mean the number of shares available currently or at next conversion date multiplied by the stock’s current market price.

Report all realized equity capital gains (losses), net of capital gains tax, in the appropriate sub-components.

The following guidance pertains to instruments in Scope of *SSAP No. 86—Derivatives*:

- For derivative instruments used in hedging transactions, the determination of whether the capital gains (losses) are allocable to the IMR or the AVR is based on how the underlying asset is treated. Realized gains (losses), net of capital gains tax, on portfolio or general hedging instruments should be included with the hedged asset. Gains (losses), net of capital gains tax, on hedges used, as specific hedges should be included only if the specific hedged asset is sold or disposed of.
- For income generation derivative transactions, the determination of whether the capital gains (losses) are allocable to the IMR or the AVR is based on how the underlying interest (for a put) or covering asset (for a call, cap or floor) is treated. Realized gains (losses), net of capital gains tax should be included in the same sub-component where the realized gains (losses) of the underlying interest (for a put) or covering asset (for a call, cap or floor) is reported. Refer to *SSAP No. 86—Derivatives* for accounting guidance.

Realized gains (losses), net of capital gains tax, resulting from the sale of U.S. government securities and the direct or guaranteed securities of agencies which are backed by the full faith

and credit of the U.S. government are exempt from the AVR. This category is described in the Investment Schedules General Instructions.

Staff Review Completed by: Julie Gann - NAIC Staff, September 2023

Status:

On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions, as illustrated above, to the annual statement instructions to remove the guidance that directs all preferred stock to be allocated between IMR/AVR based on NAIC designation, and clarify that perpetual preferred stock, which includes SVO-Identified Preferred Stock ETFs shall reported as equities through AVR.

<https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24SpringNationalMeeting/Hearing/11-23-29-IMRPreferredStock.docx>

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: Admissibility Requirements of Investments in Downstream Holding Companies

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue: This agenda item is the result of regulator comments received on the existing guidance in *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, paragraph 24, and is intended to update the language in paragraph 24 on audits and admissibility to better align with guidance in paragraphs 26 and 27 on the look-through methodology. The current SSAP No. 97, paragraph 24 guidance states “if the downstream noninsurance holding company does not meet the requirements of paragraph 26, **audited GAAP financial statements, as described in paragraph 23, are required for the downstream noninsurance holding company and its SCA and non-SCA investments** in order for the investment in the downstream noninsurance holding company to be classified as an admitted asset.”

The issue with the existing paragraph 24 guidance is that as it summarizes other guidance it could be perceived as contradicting guidance provided in paragraph 27 related to the “look through” process. This process allows admitting audited investments in entities owned by an **unaudited downstream noninsurance holding company** SCA entity.

Existing Authoritative Literature:

***SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities* (bolding added for emphasis)**

Admissibility Requirements of Investments in Downstream Holding Companies

23. To meet the admissibility requirements of this statement, unless the limited exception to the audited financial statements requirement discussed in paragraphs 26 and 27 applies, an annual audit of the financial statements of SCA entities, including the downstream holding company valued under paragraphs 8.b.i through 8.b.iv. must be obtained. The requirement for audited financial statements may be met by utilizing any one of the following methods:

- a. Audited US GAAP financial statements of the downstream SCA holding company. (Consolidated or combined financial statements are allowed encompassing one or more downstream holding companies, including such holding companies that directly own U.S. insurance entities, provided that the statutory financial statements of such U.S. insurance entities are audited. Annual consolidated or combined audits are allowed for insurance entities if completed in accordance with the Model Regulation Requiring Annual Audited Reports as adopted by the SCA’s domiciliary state.) The audited financial statements of the downstream holding company shall include as other financial information, consolidating or combining balance sheet schedule(s) showing the equity of all relevant SCA entities and non-SCA SSAP No. 48 entities, and any required intercompany eliminations. The consolidating or combining balance sheet schedule shall separately present those entities owned directly by the downstream holding company. The consolidating or combining balance sheet shall then be adjusted for GAAP to SAP differences for paragraph 8.b.i., 8.b.ii. and 8.b.iv. entities owned directly or indirectly by the downstream holding company. The adjusted amount would then be the reported value of the investment in the downstream holding company at the higher-level reporting entity; or

- b. Audited foreign GAAP-basis financial statements of the downstream SCA holding company. (Consolidated or combined financial statements are allowed encompassing one or more downstream holding companies, including such holding companies that directly own U.S. insurance entities, provided that the statutory financial statements of such U.S. insurance entities are audited. Annual consolidated or combined audits are allowed for insurance entities if completed in accordance with the Model Regulation Requiring Annual Audited Reports as adopted by the SCA's domiciliary state.) The audited foreign GAAP basis financial statements shall include an audited footnote disclosure within the financial statements that reconciles each consolidated entity's net income and equity on a foreign basis of accounting to a U.S. GAAP basis. The audited financial statements of the downstream holding company shall include as other financial information, consolidating or combining balance sheet schedule(s) showing the equity of all relevant SCA entities non-SCA SSAP No. 48 entities, and any required intercompany eliminations. The consolidating or combining balance sheet schedule shall separately present those entities owned directly by the downstream holding company. The consolidating or combining balance sheet shall then be adjusted for GAAP to SAP differences of the insurance entities and paragraph 8.b.ii. and paragraph 8.b.iv. entities owned directly or indirectly by the downstream holding company. The adjusted amount would then be the reported value of the investment in the downstream holding company at the higher-level reporting entity; or
- c. Individual audits of the downstream holding company and the downstream holding company's investments in individual SCA entities.

24. If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required for the downstream noninsurance holding company and its SCA and non-SCA investments in order for the investment in the downstream noninsurance holding company to be classified as an admitted asset.

25. A purchased downstream holding company is valued in accordance with the provisions of paragraphs 22-25 and the provisions of SSAP No. 68.

Limited Exceptions to the Audit Requirements for Downstream Noninsurance Holding Companies

26. This statement requires that investments in SCA entities be recorded using one of the valuation methods described in paragraph 8 in order to be admitted assets. Each of the paragraph 8.b. valuation methods require the financial statements of SCA entities, including downstream noninsurance holding companies, to be audited in order for the investments in SCA entities to be admitted assets. Likewise, SSAP No. 48 requires the financial statements of joint ventures, partnerships, and/or limited liability companies in which the downstream noninsurance holding company has a minor ownership interest or otherwise lacks control, i.e., ownership interest is less than 10% to be audited (U.S. GAAP) in order to be admitted assets. **There is a limited exception to the requirement to have audited financial statements of a downstream noninsurance holding company, provided that the entities owned by the downstream noninsurance holding company (paragraph 8.b.iii. entity) have audited financial statements as described in paragraphs 26 and 27.**

27. The process of admitting audited investments in entities owned by an unaudited downstream noninsurance holding company SCA entity will be known as a "look through." In order to admit the investments in audited SCAs or the audited non-SCA SSAP No. 48 entities owned by an unaudited downstream noninsurance holding company, a reporting entity may apply the look through approach, provided all of the following conditions are met:

- a. The downstream noninsurance holding company is an 8.b.iii entity, and

- b. The downstream noninsurance holding company does not own any other assets which are material to the downstream holding company other than the audited SCA entities and/or audited non-SCA SSAP No. 48 entities, and
- d. The downstream noninsurance holding company is not subject to liabilities, commitments, contingencies, guarantees or obligations which are material to the downstream noninsurance holding company.

If an investment in a downstream noninsurance holding company meets the requirements set forth above, the reporting entity can admit the individual audited SCA entities and/or audited non-SCA SSAP No. 48 entities; however, unaudited immaterial assets of the downstream noninsurance holding company are to be carried at the lesser of the paragraph 8 valuation or nonadmitted (e.g. some equity method investments are required to be carried at a negative value due to either statutory adjustments or to parental obligations to keep funding the subsidiary). If a holding company structure has more than one downstream non-insurance holding company, each downstream non-insurance holding company may be looked through, provided each downstream non-insurance holding company meets all of the conditions in paragraph 27.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): N/A

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 97—Subsidiary, Controlled and Affiliated Entities* to revise paragraph 24 language to better align it with the existing guidance provided in paragraphs 26 and 27.

Proposed edits to SSAP No. 97:

24. If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required. ~~for the downstream noninsurance holding company and its SCA and non-SCA investments~~ in order for the investment in the downstream noninsurance holding company or individual SCAs to be classified as an admitted asset.

Staff Review Completed by: Jason Farr– NAIC Staff, November 2023

Status:

On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed consistency revisions to *SSAP No. 97—Subsidiary, Controlled and Affiliated Entities* to revise paragraph 24 language to better align it with the existing guidance provided in paragraphs 26 and 27.

Proposed edits to SSAP No. 97: The following is proposed for Spring 2024, discussion, in agreement with the interested parties comments that the exposed phrased “or individual SCAs” is not necessary:

25. If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required. ~~for the downstream noninsurance holding company and its SCA and non-SCA investments~~ in order for the investment in the downstream noninsurance holding company to be classified as an admitted asset.

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: Updates from Model 630 Mortgage Guaranty Insurance

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue:

This agenda item addresses updates to the *Mortgage Guaranty Insurance Model Act* (Model #630) which was adopted by NAIC Executive and Plenary in August 2023. Model #630 is excerpted in *Appendix A-630 Mortgage Guaranty Insurance* which is referenced in *SSAP No. 58—Mortgage Guaranty Insurance*. In addition, SSAP No. 58 includes some excerpts from Model #630 regarding contingency reserves.

The updates to Model #630 were part of a multiyear project by the Mortgage Guaranty Insurance (E) Working Group which began in November 2012. The project originally considered updating the capital requirements for mortgage guaranty insurers, but ultimately determined to focus on updating the model law. The updates to Model #630 were primarily drafted in 2022 and 2023.

This agenda item will review the new model for potential updates to SSAP No. 58 and Appendix A-630, with a focus on accounting and reporting issues. Although the model law was expanded, most of the key accounting related provisions only have minor updates. As part of this review some of the summary conclusion, general section which is descriptive of the mortgage industry is also proposed to have minor updates.

Existing Authoritative Literature:

Appendix A-630 Mortgage Guaranty Insurance
SSAP No. 58—Mortgage Guaranty Insurance (bolding added for emphasis)

1. This statement establishes statutory accounting principles for mortgage guaranty insurance and addresses areas where mortgage guaranty insurance accounting differs from other lines of insurance. To the extent a topic is not covered **by this statement and Appendix A-630**, mortgage guaranty insurance accounting shall comply with statutory accounting guidance for other lines of property and casualty insurance.
2. Mortgage guaranty insurance protects a lender against loss of all or a portion of the principal amount of a mortgage loan upon default of the mortgagor. Mortgage guaranty insurance differs from other types of property and casualty insurance in that coverage is long-term, and in most cases, premiums are level and paid monthly. Most states require issuers of mortgage guaranty contracts to be monoline insurers and impose limitations on the aggregate amount of risk insured based on geographic territories. Additionally, states may require mortgage guaranty insurers to reinsure with only selected reinsurers.
6. Mortgage guaranty insurance companies generally offer the following premium payment plans: (a) monthly premiums, (b) a single premium which provides coverage for periods ranging from three to 15 years, (c) nonlevel annual premiums, and (d) level annual premiums. All policies are renewable at the discretion of the lender. The mortgage guaranty insurer does not have an option to cancel or nonrenew the policy, except for fraud or nonpayment of the premium.

15. Pool insurance policies are not cancelable by the insurer except for nonpayment of premium. These policies may be written on mortgage pools having terms of up to 30 years. However, the average policy life is 8 to 12 years.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: The current number of mortgage guaranty insurers is less than ten and these are concentrated in three U.S. states North Carolina, Pennsylvania and Wisconsin.

Convergence with International Financial Reporting Standards (IFRS): Not applicable.

Staff Review Completed by: Robin Marcotte – NAIC Staff, September 2023

Staff Recommendation:

NAIC staff recommends that the Working Group move this to the active listing and expose the intent to review Model #630 for incorporation into SSAP No. 58 and Appendix A-630 as applicable. Because there are less than ten mortgage guaranty insurers, and they are concentrated in the states of North Carolina, Pennsylvania and Wisconsin, NAIC staff requests comments on the proposed effective date of the AP&P updates. Initial feedback indicates that the earliest that the Model #630 revisions could be applicable in the affected states would be January 1, 2025, or later. NAIC staff is hesitant to recommend adoption of revisions to the AP&P Manual prior to adoption by the primary state regulators of the mortgage guaranty insurers.

Status:

On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed their intent to review the revisions to the *Mortgage Guaranty Insurance Model Act* (#630) for incorporation into SSAP No. 58 and Appendix A-630 as applicable. The Working Group also requested comments on the proposed effective date of the AP&P updates.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24 Spring National Meeting/Hearing/13 - 23-31 Model 630 Mortgage G.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24SpringNationalMeeting/Hearing/13-23-31Model630MortgageG.docx)

**Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A**

Issue: Bond Definition – Debt Securities Issued by Funds

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue: This agenda item has been developed to clarify guidance in the principles-based bond definition on the treatment on debt securities issued by funds, particularly to eliminate inconsistent application between similar funds and to better align with the recently adopted definition of residual tranches. In the adopted bond definition, bonds issued by business development corporations (BDCs), closed-end funds (CEFs), or similar operating entities are provided as examples of issuer credit obligations (ICOs) when they are registered under the Investment Company Act of 1940 (1940 Act). It has been noted that this guidance is inconsistent with the stated intent of having the bond definition be principles-based as the registration of the fund appears to be the basis of classification as an ICO vs ABS, rather than based on principles. It has been noted that with the current guidance, two funds with issued debt that are virtually identical can have separate SSAP classification of the debt securities (resulting with different accounting/reporting) simply based on whether the fund is registered. Additionally, it would lead to debt securities being classified inconsistently with their equity counterparts. In concept, there should be consistency between the classification of a debt security as an asset-backed security, and the equity of that structure being classified as a residual interest. Using SEC-registration as currently adopted would result in misalignment of these concepts.

The changes captured within this agenda item propose to revise the principles-based bond definition guidance to clarify that debt securities issued by funds representing operating entities qualify as ICOs. This would allow consistent treatment of similar funds regardless of SEC registration status. Guidance is also proposed to assist with distinguishing whether a fund represents an operating entity or a securitization vehicle.

The original guidance, and the reference to the SEC registration, was an easy approach to determine whether a debt security from a fund qualified as an ICO. This is because SEC registered funds have leverage limits on how much debt can be issued. Although debt securities issued from SEC registered CEFs and BDCs are still permitted as ICOs, the proposed edits permit debt securities from non-registered funds to qualify as ICO if the funds are functioning as operating entities and are not issuing securities for the primary purpose of raising debt capital.

Existing Authoritative Literature:

- **SSAP No. 26R—Bonds (Effective Jan. 1, 2025)**

7. An issuer credit obligation is a bond, for which the general creditworthiness of an operating entity or entities through direct or indirect recourse, is the primary source of repayment. Operating entity or entities includes holding companies with operating entity subsidiaries where the holding company has the ability to access the operating subsidiaries' cash flows through its ownership rights. An operating entity may be any sort of business entity, not-for-profit organization, governmental unit, or other provider of goods or services, but not a natural person or "ABS Issuer" (as defined in paragraph 8). Examples of issuer credit obligations include, but are not limited to:

- a. U.S. Treasury securities, including U.S. Treasury Inflation-Indexed Securities; (INT 01-25)
- b. U.S. government agency securities;

- c. Municipal securities issued by the municipality or supported by cash flows generated by a municipally-owned asset or entity that provides goods or services (e.g., airport, toll roads, etc.);
- d. Corporate bonds issued by operating entities, including Yankee bonds and zero-coupon bonds;
- e. Corporate bonds, issued by holding companies that own operating entities;
- f. Project finance bonds issued by operating entities;
- g. Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity (e.g., Credit Tenant Loans (CTLs), Equipment trust certificates (ETCs), other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principal concept, repayment is fully-supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security.
- h. Bonds issued by real estate investment trusts (REITs) or similar property trusts;
- i. **Bonds issued by business development corporations, closed-end funds, or similar operating entities, in each case registered under the 1940 Act;**
- j. Convertible bonds issued by operating entities, including mandatory convertible bonds as defined in paragraph 20.b.

Issue Paper – Exposure Draft As of 2023 Summer National Meeting

32. Whether an issuer of debt represents an operating entity or ABS Issuer is expected to be clear in most instances, but certain instances may be less clear. Ultimately, for an issuer credit obligation, it comes down to whether support for repayment consists of direct or indirect recourse to an operating entity or entities. In addition to “traditional bond” structures previously included in SSAP No. 26R, examples of issuer credit obligations include:

- a. Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity. (e.g., CTLs, ETCs, other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principle concept, repayment is fully-supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security.
- b. Bonds issued by real estate investment trusts (REITS) or similar property trusts.
- c. **Bonds issued by business development corporations, closed-end funds or similar operating entities, in each case registered under the 1940 Act. With this inclusion, it is important to highlight that the intent is specific to bonds issued from SEC-registered entities. The reference to “similar entities” is not intended to capture items issued from collateralized fund obligations (CFOs) or other such structures. Although some may consider CFOs to be similar to closed-end funds, that assessment is not supported for classification as an issuer credit obligation. Instruments considered to reflect CFOs (and other like structures) are required to be assessed as asset-backed securities for inclusion on Schedule D-1.**
- d. Project finance debt issued by operating entities. These investments reflect financing of a single asset or “operation” (such as a toll road or power generation facility) that collateralizes a debt issuance and the cash flows produced by the asset/operation service the debt, where the issuer may also represent an operating entity. These designs have characteristics of both issuer credit operations, as the operation constitutes a stand-alone business, as well as characteristics of ABS, as they are formed for the purpose of raising debt capital backed by the cash flows from collateral held by a bankruptcy-remote entity. When viewed holistically, these issuing entities are typically used to facilitate the financing of an operating component of a project sponsor or municipality.

Although the use of a bankruptcy-remote entity (e.g., SPV) facilitates the efficient raising of debt as a source of financing, the primary purpose is to finance an operating project. Therefore, when the issuing entity represents a stand-alone business producing its own operating revenues and expenses, where the primary purpose is to finance an operating project, the issuing entity shall be considered an operating entity despite certain characteristics that resemble ABS issuances.

- i. It is important to highlight that the guidance for project finance is strictly for instruments issued by operating entities, similar to other instruments that qualify as issuer credit obligations under the principles-based bond definition. Consistent with other concepts, the naming convention (e.g., referring to an instrument as project finance) or the presence or absence of an SPV/trust structure are not definitive components in determining whether an investment qualifies for reporting on Schedule D-1, or is classified as an issuer credit obligation or ABS. Instruments (even if identified as “project finance”) that do not qualify as issuer credit obligations as they not issued by operating entities, shall be assessed for qualification for reporting on Schedule D-1 as ABS. If the instruments do not qualify for reporting as ABS, they shall not be reported on Schedule D-1.
- e. U.S. Treasury Inflation-Protected Securities (TIPs): The inclusion of U.S. TIPs specifically as an issuer credit obligation intends to highlight a specific exception to the determination as a creditor relationship as the variation is due to plain-vanilla inflation adjustment mechanisms. Although U.S. TIPs are specific as issuer credit obligations, Under the bond definition encompassing both issuer credit obligations and asset-backed securities, in order for a debt instrument to represent a creditor relationship, it must have pre-determined principal and interest payments (whether fixed interest or variable interest) with contractual amounts that do not vary based on the appreciation or depreciation (e.g., performance) of any underlying collateral value or other non-debt variable . For example, an issued security that has varying principal and interest payments based on the appreciation of referenced equity, real estate or other non-debt variables are precluded from bond treatment as they do not reflect creditor relationships. Although US TIPS are indexed to the consumer price index and grows with inflation, these securities shall be captured as issuer credit obligations on Schedule D-1.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- *SSAP No. 26R—Bonds* and *SSAP No. 43R—Asset-Backed Securities*, reflecting new guidance to incorporate a principles-based bond definition were adopted during the 2023 Summer National Meeting. This guidance is effective Jan. 1, 2025. The corresponding Issue Paper has been updated as discussions occurred and has not yet been finalized as discussions involving SSAP No. 21R for the debt securities that do not qualify as bonds is not yet adopted.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): N/A

Recommendation:

NAIC staff recommend that the Working Group include this agenda item on their maintenance agenda as a SAP clarification and expose revisions to *SSAP No. 26R—Bonds* incorporating the principles-based bond definition to clarify that debt securities issued by funds that represent operating entities are permitted as issuer credit obligations. These revisions would be in effect pursuant to the effective date of the revised SSAP No. 26R guidance, which is Jan. 1, 2025. The edits revise paragraph 7.i and incorporate a new paragraph 12 to the SSAP No. 26R guidance.

This agenda item also proposes revisions to the draft Issue Paper (paragraph 32c) to update the guidance previously included addressing 1940 Act registered BDCs and CEFs as issuer credit obligations.

Proposed Revisions to SSAP No. 26R—Bonds (Effective Jan. 1, 2025)

7. An issuer credit obligation is a bond, for which the general creditworthiness of an operating entity or entities through direct or indirect recourse, is the primary source of repayment. Operating entity or entities includes holding companies with operating entity subsidiaries where the holding company has the ability to access the operating subsidiaries' cash flows through its ownership rights. An operating entity may be any sort of business entity, not-for-profit organization, governmental unit, or other provider of goods or services, but not a natural person or "ABS Issuer" (as defined in paragraph 8). Examples of issuer credit obligations include, but are not limited to:
- a. U.S. Treasury securities, including U.S. Treasury Inflation-Indexed Securities;(INT 01-25)
 - b. U.S. government agency securities;
 - c. Municipal securities issued by the municipality or supported by cash flows generated by a municipally-owned asset or entity that provides goods or services (e.g., airport, toll roads, etc.);
 - d. Corporate bonds issued by operating entities, including Yankee bonds and zero-coupon bonds;
 - e. Corporate bonds, issued by holding companies that own operating entities;
 - f. Project finance bonds issued by operating entities;
 - g. Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity (e.g., Credit Tenant Loans (CTLs), Equipment trust certificates (ETCs), other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principal concept, repayment is fully-supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security.
 - h. Bonds issued by real estate investment trusts (REITs) or similar property trusts;
 - i. ~~Bonds issued by funds representing operating entities as described in paragraph 12. Bonds issued by business development corporations, closed-end funds, or similar operating entities, in each case registered under the 1940 Act.~~
 - j. Convertible bonds issued by operating entities, including mandatory convertible bonds as defined in paragraph 20.b.
8. An asset¹-backed security is a bond issued by an entity (an "ABS Issuer") created for the primary purpose of raising debt capital backed by financial assets² or cash generating non-financial assets owned by the

¹ The underlying collateral supporting an asset-backed security shall meet the definition of an asset by the ABS Issuer. Certain forms of collateral, such as rights to future cash flows, may not be recognized as assets by the selling entity but may be recognized as assets when sold to an ABS Issuer. These assets are permitted as the collateral supporting an asset-backed security, although they may not represent an asset that can be liquidated to provide payment toward the issued debt obligations (i.e., if the future cash flows do not materialize). The limited ability to liquidate the underlying collateral supporting an asset-backed security does not impact the structural determination of whether an issued security meets the definition of an asset-backed security but may impact the recoverability of the investment, as well as the consideration of whether there is sufficient credit enhancement.

² SSAP No. 103R—*Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* defines a financial asset as cash, evidence of an ownership interest in an entity, or a contract that conveys to one entity a right (a) to receive cash or another financial instrument from a second entity or (b) to exchange other financial instruments on potentially favorable terms with the second entity. As a point of clarity, for the purposes of this standard, financial assets do not include assets for which the realization of the benefits conveyed by the above rights

ABS Issuer, for which the primary source of repayment is derived from the cash flows associated with the underlying defined collateral rather than the cash flows of an operating entity³. In most instances, the ABS Issuer is not expected to continue functioning beyond the final maturity of the debt initially raised by the ABS Issuer. Also, many ABS Issuers are in the form of a trust or special purpose vehicle (“SPV”), although the presence or lack of a trust or SPV is not a definitive criterion for determining that a security meets the definition of an asset-backed security. The provisions in paragraphs 9-10 detail the two defining characteristics that must be present for a security to meet the definition of an asset-backed security.

9. The assets owned by the ABS Issuer are either financial assets or cash-generating non-financial assets. Cash-generating non-financial assets are defined as assets that are expected to generate a meaningful level of cash flows toward repayment of the bond through use, licensing, leasing, servicing or management fees, or other similar cash flow generation. For the avoidance of doubt, there must be a meaningful level of cash flows to service the debt, other than through the sale or refinancing of the underlying assets held by the ABS Issuer. Reliance on cash flows from the sale or refinancing of cash generating non-financial assets does not preclude a security from being classified as an asset-backed security so long as the conditions in this paragraph are met.
 - a. *Meaningful Level of Cash Flows*: Determining what constitutes a “meaningful” level of cash flows generated to service the debt from sources other than the sale or refinancing of the underlying collateral pursuant to paragraph 9 is specific to each transaction, determined at origination, and shall consider the following factors:
 - i. The price volatility in the principal market for the underlying collateral;
 - ii. The liquidity in the principal market for the underlying collateral;
 - iii. The diversification characteristics of the underlying collateral (i.e., types of collateral, geographic location(s), source(s) of cash flows within the structure, etc.);
 - iv. The overcollateralization of the underlying collateral relative to the debt obligation; and
 - v. The variability of cash flows, from sources other than sale or refinancing, expected to be generated from the underlying collateral.

The factors for price variability and the variability of cash flows are directly related to the “meaningful” requirement. That is, as price volatility or variability of cash flows increase, the required percentage of cash flows generated to service the debt from sources other than the sale or refinancing of the underlying collateral must also increase. The factors for liquidity, diversification and overcollateralization are inversely related to the “meaningful” concept. That is, as liquidity, diversification or overcollateralization increase, the required percentage of cash flows generated to service the debt from sources other than the sale or refinancing of the underlying collateral may decrease.

- b. As a practical expedient to determining whether a cash generating non-financial asset is expected to produce meaningful cash flows, a reporting entity may consider an asset for which less than 50% of the original principal relies on sale or refinancing to meet the meaningful criteria. In applying this practical expedient, only contractual cash flows of the non-financial

depends on the completion of a performance obligation (e.g., leases, mortgage servicing rights, royalty rights, etc.). These assets represent non-financial assets, or a means through which non-financial assets produce cash flows, until the performance obligation has been satisfied.

³ Dedicated cash flows from an operating entity can form the underlying defined collateral in an asset-backed security. This dynamic, perhaps noted in a whole-business securitization, still reflects an asset-backed security and is not an issuer credit obligation.

assets may be considered. This practical expedient should not be construed to mean that assets cannot meet the meaningful criteria if they rely on sale or refinancing to service greater than 50% of the original principal or if they rely on cash flows that are not contracted at origination. Rather, such instances would require a complete analysis of the considerations described within the meaningful level of cash flows definition in [paragraph 9](#).

10. The holder of a debt instrument issued by an ABS Issuer is in a different economic position than if the holder owned the ABS Issuer's assets directly. The holder of the debt instrument is in a different economic position if such debt instrument benefits from substantive credit enhancement through guarantees (or other similar forms of recourse), subordination and/or overcollateralization.
 - a. *Substantive Credit Enhancement:* The intent of the criteria requiring the holder to be in a different economic position is to distinguish qualifying bonds from instruments with equity-like characteristics or where the substance of the transaction is more closely aligned with that of the underlying collateral. To qualify as an ABS under this standard, there is a requirement that there are substantive credit enhancements within the structure that absorb losses before the debt instrument being evaluated would be expected to absorb losses. This is inherent in the context of an issuer credit obligation in scope of SSAP No. 26R as the owners of the equity in the operating entity are the first to absorb any variability in performance of the operating entity. The same concept applies to asset-backed securities. If substantive credit enhancement did not exist, the substance of the debt instrument being evaluated would be more closely aligned with that of the underlying collateral than that of a bond. Credit enhancement that is merely nominal or lacks economic substance does not put a holder in a different economic position. The substantive credit enhancement required to be in a different economic position is specific to each transaction; determined at origination; and refers to the level of credit enhancement a market participant (i.e., knowledgeable investor transacting at arm's length) would conclude is substantive.
 - b. The first loss position may be issued as part of a securitization in the form of a debt or equity interest, or it may be retained by the sponsor and not issued as part of the securitization. If the first loss position (or a more senior position(s), if the first loss position(s) lacks contractual payments along with a substantive credit enhancement) is issued as part of the securitization, and does not have contractual principal and interest payments along with substantive credit enhancement and is held by a reporting entity, the [investment\(s\)](#) does not qualify for reporting as a bond and shall be reported on Schedule BA: Other Long-Term Invested Assets at the lower of amortized cost or fair value consistent with the treatment for residuals. (These items are further addressed in *SSAP No. 21R—Other Admitted Assets*.)
11. Whether an issuer of debt represents an operating entity or ABS Issuer is unambiguous in most instances, but certain instances may be less clear. For example, an entity may operate a single asset such as a toll road or power generation facility (e.g., project finance) which serves to collateralize a debt issuance, and the cash flows produced by the operation of the assets are pledged to service the debt. In many such instances, the entity is structured as a bankruptcy-remote entity that is separate from the municipality or project sponsor. Such entities have characteristics of operating entities as the operation of the asset constitutes a stand-alone business. They also have many common characteristics of ABS Issuers as they are formed for the purpose of raising debt capital backed by the cash flows from collateral held by a bankruptcy-remote entity. When viewed more holistically, these issuing entities are typically being used to facilitate the financing of an operating component of a project sponsor or municipality. The use of a bankruptcy-remote entity facilitates the efficient raising of debt to finance the operating project, but the primary purpose is to finance an operating project. Therefore, structures in which the issuing entity represents a stand-alone business producing its own operating revenues and expenses, where the primary purpose is to finance an operating project, shall be considered operating entities despite certain characteristics they may share with ABS Issuers.

12. Likewise, distinguishing between a fund that represents an operating entity and a securitization vehicle that represents an ABS Issuer can involve similar ambiguity. Both types of entities may hold only passive investments and issue debt securities for which ultimate recourse upon default is to those investments. However, a clear distinction can generally be made by evaluating the substance of the entity and its primary purpose:

a. A fund representing an operating entity has a primary purpose of raising equity capital and generating returns to its equity investors. Marginal amounts of debt may be issued to fund operations or produce levered returns to equity holders. However, this is in service to meeting the fund's primary equity-investor objective. For 1940-Act registered closed-end funds (CEFs) and business development corporations (BDCs), debt securities issued from the fund in accordance with permitted leverage ratios represent debt issued by operating entities and qualify as issuer credit obligations.

b. In contrast, an ABS Issuer has a primary purpose of raising debt capital and its structural terms and features serve to support this purpose. Perhaps most distinctively, in addition to the characteristics detailed in Paragraph 8, the contractual terms of the structure generally define how each cash flow generated by the collateral is to be applied. There is generally little discretion afforded to the manager/servicer of the vehicle and any discretion that is allowed is narrowly defined in the contractual agreements. This hardwiring of debtholder protections allows for the issuance of higher amounts of leverage than would be possible for a fund representing an operating entity, further supporting the entity's primary purpose of raising debt capital.

~~12.~~13. The definition of a creditor relationship, per paragraph 6, does not include equity/fund investments (such as mutual funds or exchanged-traded funds), or securities that possess equity-like characteristics or that represent an ownership interests in the issuer. However, as identified in paragraph 2, exchange traded funds (ETFs), which qualify for bond treatment, as identified in Part Three of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* and included in the 'SVO-Identified Bond ETF List' published on the SVO's webpage are provided special statutory accounting treatment and are included within the scope of this statement. These investments shall follow the guidance within this statement, as if they were issuer credit obligations, unless different treatment is specifically identified in paragraphs 32-38.

~~13.~~14. Investments within the scope of this statement issued by a related party, or acquired through a related party transaction, are also subject to the provisions, admittance assessments and disclosure requirements of *SSAP No. 25—Affiliates and Other Related Parties*.

~~14.~~15. Investments within the scope of this statement meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement and *SSAP No. 25*.

Proposed Revisions to Draft Issue Paper:

32. Whether an issuer of debt represents an operating entity or ABS Issuer is expected to be clear in most instances, but certain instances may be less clear. Ultimately, for an issuer credit obligation, it comes down to whether support for repayment consists of direct or indirect recourse to an operating entity or entities. In addition to "traditional bond" structures previously included in *SSAP No. 26R*, examples of issuer credit obligations include:

a. Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity. (e.g., CTLs, ETCs, other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principle concept,

repayment is fully-supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security.

- b. Bonds issued by real estate investment trusts (REITS) or similar property trusts.
- c. Bonds issued by funds representing operating entities. Determining whether a fund represents an operating entity can generally be made by evaluating the substance of the entity and its primary purpose. A fund representing an operating entity has the primary purpose of raising equity capital and generating returns to its equity investors. Marginal amounts of debt may be issued to fund operations or produce levered returns to equity holders. These debt issuances occur in accordance with the fund’s primary equity-investor objective. Debt securities issued by closed-end funds and business development corps registered under the 1940 Act are permitted automatic qualification as issuer credit obligations as those funds are subject to strict limits or reporting components on the leverage (debt issuance) within the fund. Bonds issued by business development corporations, closed-end funds or similar operating entities, in each case registered under the 1940 Act. With this inclusion, it is important to highlight that the intent is specific to bonds issued from SEC-registered entities. The reference to “similar entities” is not intended to capture items issued from collateralized fund obligations (CFOs) or other such structures. In contrast, an ABS issuer has a primary purpose of raising debt capital and its structural terms and features serve to support this purpose. More distinctively, the contractual terms of the structure generally define how each cash flow generated by the collateral is to be applied. For these structures, there is little or no discretion afforded to the manager/servicer of the vehicle and any discretion that is allowed is narrowly defined in the contractual agreements. The hardwiring of debtholder protections allows for the issuance of higher amounts of debt securities to be issued than what would be possible for a fund representing an operating entity. These features support the entity’s primary purpose of raising debt capital. Although some may consider CFOs to be similar to closed-end funds, that assessment is not supported for classification as an issuer credit obligation. Instruments considered to reflect CFOs (and other like structures) are required to be assessed as asset-backed securities for inclusion on Schedule D-1.
- d. Project finance debt issued by operating entities. These investments reflect financing of a single asset or “operation” (such as a toll road or power generation facility) that collateralizes a debt issuance and the cash flows produced by the asset/operation service the debt, where the issuer may also represent an operating entity. These designs have characteristics of both issuer credit operations, as the operation constitutes a stand-alone business, as well as characteristics of ABS, as they are formed for the purpose of raising debt capital backed by the cash flows from collateral held by a bankruptcy-remote entity. When viewed holistically, these issuing entities are typically used to facilitate the financing of an operating component of a project sponsor or municipality. Although the use of a bankruptcy-remote entity (e.g., SPV) facilitates the efficient raising of debt as a source of financing, the primary purpose is to finance an operating project. Therefore, when the issuing entity represents a stand-alone business producing its own operating revenues and expenses, where the primary purpose is to finance an operating project, the issuing entity shall be considered an operating entity despite certain characteristics that resemble ABS issuances.
- i. It is important to highlight that the guidance for project finance is strictly for instruments issued by operating entities, similar to other instruments that qualify as issuer credit obligations under the principles-based bond definition. Consistent with other concepts, the naming convention (e.g., referring to an instrument as project finance) or the presence or absence of an SPV/trust structure are not definitive components in determining whether an investment qualifies for reporting on Schedule D-1, or is classified as an issuer credit obligation or ABS. Instruments (even if identified as “project finance”) that do not qualify as issuer credit obligations as they not issued by operating entities, shall be assessed for

qualification for reporting on Schedule D-1 as ABS. If the instruments do not qualify for reporting as ABS, they shall not be reported on Schedule D-1.

- e. U.S. Treasury Inflation-Protected Securities (TIPs): The inclusion of U.S. TIPs specifically as an issuer credit obligation intends to highlight a specific exception to the determination as a creditor relationship as the variation is due to plain-vanilla inflation adjustment mechanisms. Although U.S. TIPs are specific as issuer credit obligations, Under the bond definition encompassing both issuer credit obligations and asset-backed securities, in order for a debt instrument to represent a creditor relationship, it must have pre-determined principal and interest payments (whether fixed interest or variable interest) with contractual amounts that do not vary based on the appreciation or depreciation (e.g., performance) of any underlying collateral value or other non-debt variable . For example, an issued security that has varying principal and interest payments based on the appreciation of referenced equity, real estate or other non-debt variables are precluded from bond treatment as they do not reflect creditor relationships. Although US TIPS are indexed to the consumer price index and grows with inflation, these securities shall be captured as issuer credit obligations on Schedule D-1.

Status:

On January 10, 2024, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed this agenda item with the proposed revisions, as illustrated above, to clarify the guidance for debt securities issued by funds. These revisions permit debt securities issued by funds to be classified as issuer credit obligations if the fund represents an operating entity regardless of SEC-registration status. This item was exposed with a comment deadline of February 9, 2024.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24 Spring National Meeting/Hearing/14 - 24-01 - PBBD - SEC Funds.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2024/03-16-24SpringNationalMeeting/Hearing/14-24-01-PBBD-SEC Funds.docx)

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

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February 9, 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: Interested Parties Comments on the Items Exposed for Comment during the NAIC
National Meeting in Orlando with Comments due February 9

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).

Ref #2022-14: SSAP No. 21 – New Market Tax Credits

The Working Group exposed, through an e-vote, further revisions to SSAP No. 93R and SSAP No. 94R as part of the New Market Tax Credits project. Revisions to SSAP Nos. 34, 93R, and 94R included minor consistency and clarifying revisions and one notable revision to SSAP No. 93R. That revision was made in response to concerns raised by interested parties over the paragraph 18 admittance test (now referred to as the Prospective Utilization Assessment). The Prospective Utilization Assessment was revised to remove the initial assessment of the current portion of unallocated tax credits and replaced with language that required companies to perform the Prospective Utilization Assessment only if certain conditions exist. The drafts with these revisions were exposed with an accelerated comment period of February 9, 2024, to allow the Working Group the opportunity to adopt Ref #2022-14 at the Spring National Meeting.

Interested parties appreciate the opportunity to comment on the revisions exposed by the Working Group for SSAP No. 93 - *Low Income Housing Tax Credit Property Investments* and SSAP No. 94 - *Transferable and Non-Transferable State Tax Credits*. We agree with the proposals and the most recent changes that were made in response to interested parties' feedback.

We understand that the Working Group would like feedback on the reporting categories that should be used to report tax credit investments in Schedule BA once the SSAP No. 93 changes are adopted. We have the following suggestions and comments with item No. 5 below addressing an inconsistency noted in the standard and not related to reporting categories:

1. Currently, Schedule BA has reporting sections for Guaranteed, Non-Guaranteed, and All Other Low Income Housing Tax Credit (LIHTC) investments. The RBC charges are driven by these categories and are 0.14%, 2.6%, and 15%, respectively. One suggestion could be to keep the same categories but remove all references to LIHTC tax credit investments if the expectation is that the RBC charges will remain the same regardless of tax credit program type.
2. Another suggestion is to keep the same categories, but to have two separate sections in each category, for debt and equity investments since the standard now scopes in all tax credit investments regardless of whether they are in debt or equity form. Since these investments are of high credit quality regardless of program, interested parties would expect that the RBC charges would stay the same as currently reported for LIHTC investments (as detailed in No. 1). We are happy to have further discussions on this topic understanding that it is not the Working Group, but rather Capital Adequacy that would make the ultimate decisions related to the RBC charge for these investments.
3. Another item to consider is that some tax credit investments in debt security form receive an NAIC designation from the SVO. Whether a specific reporting category will be needed for these investments depends on decisions made regarding RBC charges for these investments and whether they will be the same as they are currently for LIHTC investments. Therefore, interested parties would need more information on the expected RBC framework in order to provide more concise feedback on the appropriate reporting lines.
4. Interested parties also noted that the current annual statement instructions for LIHTC investments may need some clarity as there is diversity in interpretation as to what the instructions require. For example:
 - a. Under the non-guaranteed section, there is a reference to “level of leverage below 50%”. It is not clear why this requirement is included and whether this requirement is for the insurer to determine whether debt in the structure is below 50% of the total capitalization of the entity or how to classify the investment for accounting and reporting if leverage is higher than 50%. Interested parties note this requirement is not included in SSAP No. 93 and currently resides only in the Annual Statement instructions.
 - b. The “all other” category refers to non-qualifying LIHTC investments. Interested parties are not clear on what non-qualifying means. It may be helpful to include a definition of non-qualifying and ensure it is reflected in SSAP No. 93 as opposed

to residing solely in the annual statement instructions. If non-qualifying relates to an investee's qualifications to receive expected tax credits, then reporting entities will probably have to go to paragraph 28 to do an impairment analysis if the investee no longer qualifies and therefore, the tax credits will not emerge. However, paragraph 3 states that any investments that do not fall in the scope of SSAP No. 93 are to be accounted and reported consistent with the SSAP that addresses their underlying investment structure. If that is the case, then "non-qualifying" investments would not be reported in this section of Schedule BA and removal of the category may need to be considered.

5. Paragraphs 8 and 10 of the SSAP No. 93 exposure state that any expected residual value is to be excluded from the value of the investment that is amortized under the proportional amortization method. However, example 2 states that there is a residual value of \$1 thousand, but the full investment of \$100 thousand is being amortized. If the intent is to exclude residual value from the balance that is to be amortized, we suggest that the example be modified to reflect this requirement.

Ref #2023-25: ASU 2023-03—Amendments to SEC Paragraphs

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject *ASU 2023-03—Amendments to SEC Paragraphs* as not applicable for statutory accounting.

Interested parties have no comment on the Working Group's exposed revisions.

Ref #2023-27: ASU 2023-04—Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject *ASU 2023-04—Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121* as not applicable for statutory accounting.

Interested parties have no comment on the Working Group's exposed revisions.

Ref #2023-29: IMR / AVR Preferred Stock

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to the annual statement instructions to remove the guidance that directs all preferred stock to be allocated between IMR/AVR based on NAIC designation, and clarify that perpetual preferred stock, which includes SVO-Identified Preferred Stock (ETFs) shall be reported as equities through AVR.

Interested parties agree with the exposure but also question whether mandatorily redeemable preferred stock should be treated similarly.

Ref #2023-30: Admissibility Requirements of Investments in Downstream Holding Companies

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed consistency revisions to *SSAP No. 97—Subsidiary, Controlled and Affiliated Entities* to revise paragraph 24 language to better align it with the existing guidance provided in paragraphs 26 and 27.

Interested parties note that paragraph 24 references paragraph 23, and paragraph 23 addresses the admissibility requirements of the downstream holding company and its SCA entities. As a result, we recommend that the proposed wording be modified slightly as follows:

“If the downstream noninsurance holding company does not meet the requirements of paragraph 26, audited GAAP financial statements, as described in paragraph 23, are required ~~for the downstream noninsurance holding company and its SCA and non-SCA investments~~ in order for the investment in the downstream noninsurance holding company or individual SCAs to be classified as an admitted asset.”

Ref #2023-31: Updates from Model 630 Mortgage Guaranty Insurance

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed their intent to review the revisions to the *Mortgage Guaranty Insurance Model Act (#630)* for incorporation into *SSAP No. 58* and *Appendix A-630* as applicable. The Working Group also requested comments on the proposed effective date of the AP&P updates.

Interested parties have no comments on this item.

Ref #2024-01: Bond Definition – Debt Securities Issued by Funds

This agenda item has been developed to clarify guidance in the principles-based bond definition on the treatment on debt securities issued by funds, particularly to eliminate inconsistent application between similar funds and to better align with the recently adopted definition of residual tranches. In the adopted bond definition, bonds issued by business development corporations (BDCs), closed-end funds (CEFs), or similar operating entities are provided as examples of issuer credit obligations (ICOs) when they are registered under the Investment Company Act of 1940 (1940 Act). It has been noted that this guidance is inconsistent with the stated intent of having the bond definition be principles-based as the registration of the fund appears to be the basis of classification as an ICO vs ABS, rather than based on principles. It has been noted that with the current guidance, two funds with issued debt that are virtually identical can have separate *SSAP* classification of the debt securities (resulting with different accounting/reporting) simply based on whether the fund is registered. Additionally, it would lead to debt securities being classified inconsistently with their equity counterparts. In concept, there should be consistency between the classification of a debt security as an asset-backed security,

and the equity of that structure being classified as a residual interest. Using SEC-registration as currently adopted would result in misalignment of these concepts.

Other changes captured within this agenda item propose to revise the principles-based bond definition guidance to clarify that debt securities issued by funds representing operating entities qualify as ICOs. This would allow consistent treatment of similar funds regardless of SEC registration status. Guidance is also proposed to assist with distinguishing whether a fund represents an operating entity or a securitization vehicle.

The original guidance, and the reference to the SEC registration, was an easy approach to determine whether a debt security from a fund qualified as an ICO. This is because SEC registered funds have leverage limits on how much debt can be issued. Although debt securities issued from SEC registered CEFs and BDCs are still permitted as ICOs, the proposed edits permit debt securities from non-registered funds to qualify as ICO if the funds are functioning as operating entities and are not issuing securities for the primary purpose of raising debt capital.

Interested parties appreciate the overall goal behind the refinements proposed in the exposure to provide consistency between funds, whether registered or not, for classification as ICOs. Interested parties propose one small change to the new language included within paragraph 12.

- 12. Likewise, distinguishing between a fund that represents an operating entity and a securitization vehicle that represents an ABS Issuer can involve similar ambiguity. Both types of entities may hold only passive investments and issue debt securities for which ultimate recourse upon default is to those investments. However, a clear distinction can generally be made by evaluating the substance of the entity and its primary purpose:*
- a. A fund representing an operating entity has a primary purpose of raising equity capital and generating returns to its equity investors. **Marginal Prudent** amounts of debt may be issued to fund operations or produce levered returns to equity holders. However, this is in service to meeting the fund's primary equity-investor objective. For 1940-Act registered closed-end funds (CEFs) and business development corporations (BDCs), debt securities issued from the fund in accordance with permitted leverage ratios represent debt issued by operating entities and qualify as issuer credit obligations.*
 - b. In contrast, an ABS Issuer has a primary purpose of raising debt capital and its structural terms and features serve to support this purpose. Perhaps most distinctively, in addition to the characteristics detailed in Paragraph 8, the contractual terms of the structure generally define how each cash flow generated by the collateral is to be applied. There is generally little discretion afforded to the manager/servicer of the vehicle and any discretion that is allowed is narrowly defined in the contractual agreements. This hardwiring of debtholder protections allows for the issuance of higher amounts of leverage than would be possible for a fund representing an operating entity, further supporting the entity's primary purpose of raising debt capital.*

Changing “marginal” to “prudent” may seem rather innocuous. However, marginal seemingly connotes something very small, whereas prudent seems to be more in line with the spirit of the principle-based language within paragraph 12. Interested parties believe with this slight change, along with paragraph 12 and its primary purpose distinctions, the principle-based bond standard will achieve the stated goal of consistency for like funds.

* * * *

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

Sincerely,

D. Keith Bell

Rose Albrizio

cc: Interested parties
NAIC staff

February 9, 2024

Dear Chair Bruggeman and members of the Statutory Accounting Principles (E) Working Group (“SAPWG”):

We appreciate the opportunity to comment on [your exposure memo regarding clarifications to SSAP No. 26R on the treatment of debt securities issued by funds](#).¹ We support your effort to “eliminate inconsistent application between similar funds and to better align with the recently adopted definition of residual tranches through the Bond Project.” We would like to share some facts to support the consistent statutory treatment for securities issued by business development companies (BDCs), closed-end funds (CEFs), and private funds.

First, as you noted in the exposure memo, that substance over form is an important principle. Under SSAP No. 26R, operations such as BDCs and CEFs, regardless of being public (or listed) or private (or unlisted), their debt issuances are treated as issuer credit obligation (ICOs). “Substance” rather than “form” dictates the ICO designation of BDCs and CEFs.

Second, we see similar substance across BDCs, CEFs, and many private funds regarding the following:

- There is a related operating entity whose primary purposes are managing assets and raising capital.
- All have a well-defined and hard-wired payment priority in the legal documents. For example, in an event of default, contractually BDCs and CEFs need to redeem senior debt first and then pay off junior obligations. Furthermore, BDCs and CEFs often have additional asset coverage tests; and if a coverage test is breached, mandatory redemption would take place such that senior debt is paid first to de-lever the capital structure. This is also how the “hardwiring” works in many rated feeder funds.
- There is no special purpose vehicle (SPV) within a typical fund construct.

Finally, rating agencies’ private fund methodologies and analysis align with those for CEFs and corporate bonds (both designated as ICO) in several ways:

- Multiple rating agencies apply their CEF methodology to rate private funds.
- Rating levels and the amount of debt issued by these funds intend to right-size the risks embedded in the investment vehicle, including but not limited to prudent leverage, portfolio mix, liquidity, legal construction, and management quality.
- Funds ratings typically do not carry a structured finance (SF) subscript and are generally assigned by the Financial Institutions Group within rating agencies, not their structured finance team. An entity level anchor rating is assigned first, and that is then notched up/down to reflect security level seniority or structural subordination. Typically, rating agencies would rate no more than three-classes of debt issued by a fund. This framework aligns well with how rating agencies analyze corporate bonds overall.

In summary, we support private funds with prudent leverage to be designated as ICO, consistent with the SSAP No. 26R classification for BDCs and CEFs.

Sincerely yours,
PineBridge Insurance Solutions and Strategies

¹ SAPWG 2024-01, Bond Definition – Debt Securities Issued by Fund, <https://content.naic.org/sites/default/files/inline-files/24-01%20-%20PBBD%20-%20SEC%20Funds.docx>